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Jos le. Granman



GRANNAN'S

# Warning Against Fraud

—AND—

VALUABLE INFORMATION.

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A TREATISE UPON

*Subjects Relating to Crime and Business, and also Embracing  
Many Practical Suggestions for Everyday Life.*

—PUBLISHED BY—

THE GRANNAN DETECTIVE BUREAU CO.,  
CINCINNATI, OHIO.

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## PREFACE.

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WE are aware that it is an unusual occurrence for a Detective Bureau or Agency to publish a book, especially one of so great scope and general application to all classes as we have attempted to make this one. But a Detective Agency sits with its fingers on the pulse of the nation. It has an opportunity to know and appreciate, better than almost any other observer of miscellaneous life, the wants and weaknesses of the masses of the people. Did it ever occur to you, reader, that when a burglar wants to enter a house that he looks for the weakest spot upon which to make his attack? So when a confidence rogue sets out to swindle you out of your money he studies carefully your mental peculiarities and assails you in the weakest point. Business men, merchants, bankers, farmers, mechanics, housewives, all have peculiar habits of life that lay them liable to the traps of designing men.

Then again from our position with relation to the detection of crime and punishment of criminals, we have observed the crudeness of the work of detectives and arresting officers. Flagrant crimes have often gone undiscovered for want of a little intelligent work in tracing palpable clews. Red-handed criminals have been set at liberty or evaded arrest through the ignorance or stupidity of an officer.

These remarks will disclose our purpose, which we may be permitted to say we believe to be a laudable one, and will also disabuse the reader's mind to some extent, we trust, of the idea that it is not within the province of a Detective Bureau or Agency to publish a book.

Without attempting to outline the work, we will say that we believe that detectives and arresting officers will derive much profit from a study of the pages devoted to the Law of Crime and How to Proceed. Especially interesting has been the preparation of the chapter upon Extradition, and we believe the information to be found there has not heretofore been furnished to the public in any popular form.

We trust a careful study of the chapter on Counterfeiting and Coun-

terfeit Money will largely protect the business community against this extensive class of frauds, while the information on the swindling schemes of the day is exhaustive and has not heretofore, to our knowledge, been collected in any convenient form, and we believe intelligent study of the plans and methods of the schemers, and faithful observance of the principles we have laid down, will save careful readers from their snares.

In the part devoted to the Law of Business we have attempted to touch the practical side of life in such a way as to save all classes of people, merchants, bankers, farmers, mechanics, laborers, from the errors resulting from ignorance of the common laws and rules of business. This general ignorance of these subjects arises from two facts, neither of which is the fault of the people themselves: first, the writers on these subjects have couched their ideas in technical language, readily understood by attorneys and those familiar by long practice with legal phraseology, but not at all clear to the popular reader. Second, the works have been published in such form and at such price as to make them practically beyond the reach of the general public. We have attempted to avoid both these features and have retained only so much of the technical language of the law as is necessary to make definitions and explanations correct, and have introduced popular language that we believe will make these subjects clear even to those who have no knowledge whatever of the law.

As the work is intended not only for the officer's and detective's study, the merchant's desk and the mechanic's bench, but for family and home use as well, we have ventured to insert a small department of miscellaneous information touching a variety of subjects relating to the health, happiness and education of the domestic circle, from which we trust all classes will derive some benefit.

We submit, then, without further explanation or apology to the verdict of an impartial public who alone shall say whether we have accomplished in a creditable manner the task we set for ourselves.

THE GRANNAN DETECTIVE BUREAU CO.



# THE LAW OF CRIME.

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THE elements of crime are the same in all the States of the Union; indeed, in essential features, the same in the whole civilized world. Since the tables of stone were handed down from Mount Sinai there have been certain acts recognized by almost the whole human race as inimical to social order or individual rights. The great Jehovah's "Thou shalt not kill" has thundered down the ages with cumulative momentum and comes to us now infinitely multiplied in force by a responsive assent as to its justness from the breasts of countless millions, in every age and clime.

False notions of religion have led some misguided and semi-civilized peoples into the practice of offering up human sacrifice to appease the imagined wrath of a self-imposed deity, but the universal abhorrence in which such practices are held by all right-minded people shows how strongly intrenched in the human mind is the justice of the Mosaic law. The principle of punishment laid down by that same ancient authority, "an eye for an eye, and a tooth for a tooth," has adhered to the practice of courts and juries through all the intervening centuries with wonderful persistence. In fact it is only within recent years that a few of the States have ventured to relax the law of a life for

a life in the case of murder. And the prospect of an entire abolition of the death penalty is not flattering.

In this country there may be slight differences in statutory definitions and there are unquestionably considerable variations in the degree or amount of punishment attached to certain crimes in the different States, yet so uniform is the theory and practice of criminal law in the States that an exposition of the penal code in one will suffice to give a general and correct idea of all.

It is not within the scope of this work to enter upon a thorough treatise of the law of crime and criminal procedure. We can only hope so to expose the nature of crime and give such definitions of the great divisions, and such information as to the proper initial steps to be taken both in ferreting out crime and in starting the wheels of justice that the reader may proceed intelligently to a point where a skilled attorney must *per necessitate* be brought into the case.

As the criminal code of Ohio is perhaps as nearly representative of all the States as any that could be selected, we take that as the basis of our remarks upon the Law of Crime.



# GRANNAN'S WARNING AGAINST FRAUD.

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## CHAPTER I.

### *General Definitions and Remarks.*

THE word crime is defined by Bouvier as "an act committed or omitted in violation of a public law forbidding or commanding it." Bishop, in his admirable work on Criminal Law, defines crime as "a wrong which the government notices as injurious to the public, and punishes in what is called a criminal proceeding in its own name."

Crime is the general word covering all violations of law.

Crimes are divided into two general classes: Felonies and Misdemeanors. This division is based solely upon the degree of punishment attached to crimes.

Offenses which may be punished by death or imprisonment in the penitentiary are *felonies*; all other offenses are *misdemeanors*. Felony, by the common law of England, was an offense which occasioned a total forfeiture of either lands or goods, or both, and to which capital or other punishment might be added according to the degree of guilt. At common law in this country the word has no clearly defined meaning, but is always understood to include offenses of considerable gravity. In nearly all the States, however, it has been clearly defined by statute. The above definition is the Ohio statutory definition as set forth in Section 6795, Revised Statutes. The word is a technical one and must be understood in its recognized legal sense unless the Legislature has given it a prescribed meaning by an interpretation clause in the act in which it is used, in

which case it must be understood as interpreted, unless to do so would be repugnant to reason or to other provisions of the same act.

Misdemeanor is a term used at the common law to express every offense inferior to felony that was punishable by indictment or by particular prescribed proceedings. According to this definition it did not include a large number of offenses, of a minor nature, over which magistrates had exclusive summary jurisdiction, but under the statute the meaning has been enlarged to include *all other offenses* except felonies.

There are no common law offenses in Ohio. No act, however hurtful or immoral it may be, is punishable as a *crime* in Ohio unless that act is specially enjoined or prohibited by the statute laws of the State. This is also true of all other States that have undertaken complete statutory supervision of crime. In a few States the common law relating to crimes still prevails, and in a few others there is a mixture of common and statutory law.

*Effect of Conviction of Felony.*—A person convicted of a felony shall, unless his sentence be reversed or annulled, be incompetent to be an elector or juror, or to hold any office of honor, trust or profit in this State. Or a person who has been actually imprisoned in the penitentiary of any other State for a crime which is a felony in this State is incompetent to be an elector or juror, or hold any office of honor, trust or profit in the State.

*Pardon.*—A pardon by the Governor or the lawful pardoning power effects a restoration of the rights and privileges thus forfeited. If the crime and imprisonment took place in another State, then a pardon by the Governor of that State will restore his rights and privileges in this.

A pardon will not release from costs if the sentence was for imprisonment and costs.

Rights and privileges forfeited by conviction of a felony and imprisonment may be restored by a pardon after the culprit has served out his full term and been discharged. Such disabilities are considered a part of the punishment and not mere incidents to a sentence

*Aiders and Abettors.*—Whoever aids, abets or procures another to commit an offense may be prosecuted and punished as if he were the principal offender.

*Imprisonment.*—Means confinement in the county jail unless otherwise stated.

*The words "or" and "and."*—When the statute prescribes a punishment consisting of fine *and* imprisonment the court has no option in the matter but must impose both. But if the statute read fine *or* imprisonment, or both, the court may exercise its discretion in the case and omit either the fine or imprisonment. If the words "*or both*" are omitted from the statute either a fine or imprisonment may be imposed, but not both.



## CHAPTER II.

### *Offenses Against the Sovereignty of the State.*

#### TREASON.

WHOEVER levies war against this State or the United States, or knowingly adheres to the enemies of either, giving them aid and comfort, is guilty of treason against the State of Ohio, and shall be imprisoned in the penitentiary during life.”—*O. Rev. Stat.*, 6806.

#### MISPRISION OF TREASON.

“Whoever, having knowledge that any person has committed treason, or is about to commit treason, willfully omits or refuses to give information thereof to the Governor or some judge of the State, or to the President of the United States, is guilty of misprision of treason and shall be imprisoned in the penitentiary not more than twenty nor less than ten years.”—*O. Rev. Stat.*, 6807.

No person shall be convicted of treason or misprision of treason (unless he confess his guilt in open court) except by the testimony of two credible witnesses.

The United States statute on Treason is as follows: “Every person owing allegiance to the United States who levies war against them, or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason.”

The United States law punishes treason with death; or, at the discretion of the court, imprisonment at hard labor not less than five years and a fine of not less than ten thousand dollars, which may be collected from all his property, real and personal.

### CHAPTER III.

#### *Crimes Against the Person.*

##### MURDER, FIRST DEGREE.

WHETHER, purposely and either of deliberate and premeditated malice, or by means of poison, or in perpetrating, or attempting to perpetrate, any rape, arson, robbery or burglary, kills another, is guilty of murder in the first degree and shall suffer death."—*O. Rev. Stat.*, 6808.

The purpose or intent to kill another must be present to constitute murder in the first degree, and it must exist at the time of the assault. The purpose to kill *must* be directly and specifically averred in the indictment.

*Malice.*—Malice is not intended to mean general malevolence or unkindness of heart; it does not mean, in its legal sense, enmity toward any particular individual; it signifies rather the intent from which flows any unlawful and injurious act; yet not the intent to do an injury to any particular person, but an evil design, a corrupt and wicked notion against some one at the time of committing the crime. A intended to poison B. He put poison in an apple and placed it in B's way. C, who was a friend of A, found the apple and ate it and died. A is guilty of murdering C with *malice aforethought*.

The highwayman who waylays and murders a stranger for his money has no hatred or ill-will toward him, but does it merely for money and the law considers the act in the highest degree *malicious*.

*Premeditation.*—To constitute first degree murder the act must have been deliberated upon and a design formed to do it

before the act was done. This is true, however brief may be the period of deliberation.

Homicide by poisoning consists not only in prescribing or furnishing the poison, but also in directing and causing it to be taken. But it must be administered with the intent to kill. It is not necessary to allege malice in a case of homicide by poisoning, as the atrocity of the killing supplies the place of malice; the law implies malice.

Neither is it necessary to allege malice in a case of death resulting from any rape, arson, robbery or burglary.

#### MURDER, SECOND DEGREE.

"Whoever, purposely and maliciously, except as provided in the last two sections, kills another, is guilty of murder in the second degree, and shall be imprisoned in the penitentiary during life."—*O. Rev. Stat.*, 6810.

The two sections referred to are the one given containing definition of first degree murder and another which makes a killing that results from maliciously placing any obstruction on a railroad track with intent to endanger the passage of a locomotive or car, murder.

The difference between first and second degree murder is the lack of the element of premeditation in the latter. The same observations as to purpose and malice apply here as in first degree.

The presumption of law in Ohio is, after the fact of the killing is proved, that it was done purposely and with malice but without premeditation. In other words, the law presumes that a proved killing is murder in the second degree.

#### MANSLAUGHTER.

"Whoever unlawfully kills another, except as provided in the last three sections, is guilty of manslaughter, and shall be imprisoned in the penitentiary not more than twenty years nor less than one year."—*O. Rev. Stat.*, 6811.



This crime lacks both the elements of premeditation and malice.

The Ohio definition follows the common law in substance and almost in form. Malice is not necessary to this crime, yet if malice is present, but no intent to kill, the crime will still be manslaughter. An intentional killing, without malice, may be manslaughter, if it occur in a sudden quarrel. If a person strike another with a dangerous weapon, upon a sudden quarrel, or beat him in a cruel manner, so that death ensue, although he had no intent to produce death, the crime will be manslaughter.

Minnesota and Wisconsin make three degrees of murder. Alabama, Arkansas, California, Connecticut, Delaware, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, Ohio, Oregon, Pennsylvania, Tennessee, Texas and Virginia make two degrees. All the States inflict the death penalty for first degree murder except Michigan and Wisconsin. At common law there were no degrees of murder. It was defined as "the willful killing of any subject whatever, with malice aforethought, whether the person slain shall be an Englishman or a foreigner."

In some States murder remains as at common law and in some it has been modified by statute. Manslaughter is not murder. Malice, the essence of murder, is wanting. Another distinction at the common law was that there could be no accessories before the fact in manslaughter, there being no time for premeditation. It has been thought by some, too, that there could be no aiders or abettors in manslaughter, but this theory has been overthrown in Ohio. See definition of *Abettor and Accessory*.

#### ATTEMPT TO PROCURE AN ABORTION.

"Whoever, with intent to procure the miscarriage of any woman, prescribes or administers to her any medicine, drug or

substance, whatever, or with like intent uses any instrument or means whatever, unless such miscarriage is necessary to preserve her life, or is advised by two physicians to be necessary for that purpose, shall, if the woman either miscarries or dies in consequence thereof, be imprisoned in the penitentiary not more than seven years nor less than one year."—*O. Rev. Stat.*, 6815.

If the drug is administered to a woman pregnant with a quick child with intent not to kill the woman but to produce abortion, and the woman die, the offense can not constitute murder in the first degree in Ohio. Neither can the accused be indicted for manslaughter. The offense is "attempting to procure abortion."

#### RAPE.

"Whoever has carnal knowledge of a female person forcibly and against her will, or, being seventeen years of age, carnally knows or abuses a female child under ten years of age, with her consent, is guilty of rape."—*O. Rev. Stat.*, 6816.

*Punishment for Rape.*—"A person convicted of rape upon his daughter, or sister, or a female child under twelve years of age, shall be imprisoned in the penitentiary during life; and a person convicted of rape upon any other female shall be imprisoned in the penitentiary not more than twenty years nor less than three years."—*O. Rev. Stat.*, 6817.

The law presumes that a child under ten years of age can not consent to an act of carnal knowledge. This presumption may be rebutted by proof that she understood the nature of the act committed. The defendant may prove a general bad reputation for chastity on the part of the prosecutrix, but he can not show particular acts of unchastity. Neither can she be questioned on the witness stand as to previous criminal intercourse with persons other than the accused himself.

The law presumes that an infant under fourteen years of

age is incapable of committing rape, but this presumption may be rebutted by proof that the person has arrived at the age of puberty.

There has been much discussion in settling the meaning of the words "*carnal knowledge*." Some judges have held that penetration is alone sufficient to constitute "carnal knowledge," while others have maintained that both penetration and emission are necessary. The best opinion in modern law seems to be that both penetration and emission are not necessary.

If a woman is stupefied with liquor and in this condition connection is had with her it is rape, even though the liquor was only given to her to excite her.

If a man leads a woman to believe that she is his wife and has connection with her under this fraud, it does not amount to rape. He may be indicted for assault.

A husband can not commit rape upon his wife, but he may be guilty as an abettor or principal in the second degree, as if he should hold her while another had connection with her. A consent obtained from a woman by actual violence or threats of murder, or by administering stupefying drugs, is not such a consent as the law requires—the offense will still be rape.

The punishment for rape in England was death, until a Statute of Victoria made the extreme penalty transportation for life. In the States the punishment varies from death to long imprisonment.

#### ROBBERY.

"Whoever, by force and violence, or by putting in fear, steals and takes from the person of another anything of value, is guilty of robbery, and shall be imprisoned in the penitentiary not more than fifteen years nor less than one year."—*O. Rev. Stat.*, 6818.

At common law robbery is larceny from the person accom-



panied by violence or putting in fear. It is not necessary, however, to show that the property taken was actually severed from his person. It is enough if the thing stolen was in his presence and under his immediate control. But it must be shown that he was laboring under such fear that the property was taken from him or his immediate control with intent to steal or rob.

#### SHOOTING, ETC., WITH INTENT TO KILL.

“Whoever maliciously shoots, stabs, cuts or shoots at another person, with intent to kill, wound or maim such person, shall be imprisoned in the penitentiary not more than twenty years nor less than one year.”—*O. Rev. Stat.*, 6820.

If a shot or a blow at one strike another who was known to be in such position that his injury might reasonably be apprehended as a probable result of the act, the law will hold the intent to have embraced the victim. Or if a person shoot or cut another under the supposition that it is somebody else against whom his malice is inflamed he will be held under this statute.

#### ASSAULT WITH INTENT TO KILL, ETC.

“Whoever assaults another with intent to kill, or to commit rape or robbery upon the person so assaulted, shall be imprisoned in the penitentiary not more than fifteen years nor less than one year.”—*O. Rev. Stat.*, 6820.

If the assault is by shooting, shooting at, cutting or stabbing, the charge should be drawn under Sec. 6820.

#### ASSAULT AND BATTERY.

Whoever unlawfully assaults or threatens another, in a menacing manner, or unlawfully strikes or wounds another, shall be fined not more than two hundred dollars, or imprisoned not more than six months, or both. This is a misdemeanor.

The assault is the unlawful attempt or offer with force to do bodily harm to another. The battery is the unlawful beating or other wrongful physical violence inflicted upon another without his consent. It is not necessary to touch him with the hands. He may be hit with a stick or by a thrown missile, or spit in the face, or touched in any rude manner ever so lightly and it will be a battery. If A strike a cane in the hands of B it is a battery on B.

Batteries may be justified: 1. As a mode of correcting a child. 2. As a means of preserving the peace. 3. As a means of self-defense of the person. 4. As a necessary defense of one's property.

If two persons fight at fisticuffs by agreement, neither of them can be convicted of assault and battery.

#### KIDNAPING.

This offense is punished in Ohio by from one to seven years in the penitentiary. It consists in forcibly or fraudulently carrying off or decoying out of the State any person; or enticing females under eighteen years of age away from home for purposes of prostitution.

#### CHILD STEALING.

The child must be under twelve years of age. The punishment is from one to twenty years in the penitentiary.

#### LIBEL.

"Whoever writes, prints or publishes any false or malicious libel of or concerning another, or verbally uses, utters or publishes any false or malicious slander of or concerning any female of good repute, with intent to cause it to be believed that such female is unchaste, shall be fined not more than five hundred dollars or imprisoned not more than six months, or both, but nothing written or printed shall be deemed a libel, unless there is a publication thereof."—*O. Rev. Stat.*, 6828.

A libel is that which is written or printed, and published, calculated to injure the character of another by bringing him into ridicule, hatred or contempt. A more accurate definition than this has perhaps been given by the New York Court of Appeals and adopted by the Supreme Courts of Pennsylvania and Ohio. It is as follows:

"A libel is a censorious or ridiculous writing, picture or sign, made with a mischievous and malicious intent toward government, magistrates or individuals."

It does not necessarily charge the plaintiff with crime. Wanton and malicious ridicule, a tendency to degrade the plaintiff and lessen his standing in society, will sustain an action for libel.

#### SLANDER.

Slander is falsely and maliciously, *orally* charging another with anything involving moral turpitude which, if true, will subject him to infamous punishment, or that tends to exclude him from society, or to prejudice him in his office, profession, trade or business. The remedy for slander is a suit for damages and recovery may be had without proof of actual damage.

Any charge that would support a suit for slander, if the words were merely spoken, would sustain a suit for libel if the words were written or printed and published. Libel is much broader and more comprehensive because the words are embodied in a more enduring form and are promulgated with greater deliberation and malignity. Words of ridicule or contempt which only wound a man's feelings will constitute libel if written and published, but would not constitute slander if spoken.

Slander is neither a crime nor a misdemeanor. It is a tort. It is mentioned in this connection, because it is so closely allied to libel.

#### BLACKMAILING.

This crime, in brief, consists in demanding with menaces or



threats, either orally or in writing, something of value which is not owed by the threatened party; or accusing in any way, or threatening to accuse, any person of a crime punishable by law, or of any immoral conduct, which, if true, would tend to degrade such person, with intent to extort or gain from such person any chattel, money or valuable security; or with intent to compel the person threatened to do any act against his will.

The punishment in Ohio is from one to five years in the penitentiary.

The frequency and boldness with which this crime is committed, especially in large cities, is appalling. There are in New York, Boston, Philadelphia, Cincinnati, Chicago and every large city, hundreds of professional blackmailers. A majority of them are women, but many have a man working with them. A trap is laid for a prominent business man, he is caught in a compromising situation, and although he may be entirely innocent of any wrong, still circumstances are against him, and fearing the effect upon his business, or social standing, or family, of the publication of the circumstances, he yields to the opportunity offered to keep it quiet "for a consideration." Once having paid hush money he is forever lost. He dare not refuse subsequent demands for money, for the first payment was a virtual acknowledgment of his guilt. He dare not complain to the authorities, for that would result in bringing the whole matter to public view. So he is bled year after year, while the villainous blackmailer enjoys immunity from punishment and lives in luxury from the substance plundered often from worthy mothers and wives and crying babes. A person from whom blackmail is levied is truly accursed. He dare not use the remedy provided by the law.

## CHAPTER IV.

### *Offenses Against Property.*

#### ARSON.

WHOEVER maliciously burns, or attempts to burn, any dwelling-house, kitchen, smoke-house, shop, barn, etc., or any other building, the property of another person, of the value of fifty dollars, or any church, court-house, school-house, jail, etc., or other public building, or any ship or other water-craft of the value of fifty dollars, or any toll bridge wholly or partly in the State, or any other bridge of the value of fifty dollars within the State, shall be imprisoned in the penitentiary not more than twenty years.

Whoever maliciously burns or sets fire to any dwelling-house, etc., of the value of fifty dollars, being his own property, and insured against loss or damage by fire, with intent to prejudice the insurer, shall be imprisoned in the penitentiary not more than twenty years.

Arson is the malicious burning of the house of another. But house includes all kinds of buildings, and the Ohio Statute makes it cover bridges as well.

Burning the personal property of another maliciously, as hay, wheat, grain of any kind, fence, boards, timber, etc., is punished by imprisonment in the penitentiary for from one to three years, if the value of the chattel burned is thirty-five dollars or more. If under that sum, a fine of from five to one hundred dollars and not over thirty days' imprisonment, or both, is imposed.

## BURGLARY.

Whoever, in the night season, maliciously and forcibly breaks and enters any dwelling-house, kitchen, etc., church, school-house, barn, railroad car, etc., with intent to commit a felony or to steal property of any value, shall be imprisoned in the penitentiary not more than ten years nor less than one year.

To constitute burglary the breaking and entering must take place in the night time, and the indictment must distinctly charge that it was done in the night time. See "Night" in Definitions. .

No great amount of force is necessary. The turning of a knob of a door that is closed but not locked, and pushing it open, however easily or gently, will be a forcible entry. Pushing open a closed transom that was not fastened is sufficient to constitute a breaking under the Ohio Statute. But if a door is left partly open or a window partly raised and the defendant enters by pushing open the partly open door or by further raising the window that is already a little up, it will not constitute burglary. The act of leaving the windows and doors in this condition is considered such negligence or folly on the part of the owner of the building, as to induce or tempt a stranger to enter.

Maliciously entering in the day-time or night season any dwelling-house, etc., as above, and attempting to commit a felony, is punished by imprisonment in the penitentiary for from one to two years.

Maliciously breaking and entering any dwelling, etc., as above, with intent to steal, is punished by a fine not exceeding three hundred dollars and imprisonment not more than sixty days.

Unlawfully breaking and entering any mansion, house, etc., as above, in the night season, and committing or attempting to commit any personal violence, is punished by a fine not ex-



ceeding three hundred dollars and imprisonment not over thirty days.

If in the day-time, the punishment is a fine of not over one hundred dollars and imprisonment not over twenty days.

#### EMBEZZLEMENT.

The statutes of Ohio distinguish in the punishment of this crime between embezzlement of public funds by public officers and embezzlements by agents and employes of private parties. The latter is punished exactly as a larceny of the same value. The statute is very full and explicit in regard to embezzlements by public officers, including every species of valuable thing, and covering every possible form of conversion to personal use. The punishment is imprisonment in the penitentiary from one to twenty-one years, and a fine in double the amount of money or other property embezzled, which fine operates as a judgment at law on all of the estate of the party sentenced, and may be enforced to collection by execution or other process, for the use only of the owner of the property so embezzled. The public officer, to be convicted under this statute, must be one "charged with the collection, receipt, safe-keeping, transfer or disbursement of the public money, or some part thereof, belonging to the State, county, township, municipal corporation or board of education."

A county auditor does not come under this section, as he is not charged with the possession and custody of money within the meaning of the statute.

As stated above, if the embezzlement is by a private agent or employe, the offense is punished the same as a larceny of the same amount.

#### REMOVING MORTGAGED PERSONAL PROPERTY.

If a person mortgages personal property, retaining possession of it, and removes any of it out of the county without the

consent of the mortgagee, or secretes or sells it, or converts it to his own use with intent to defraud, he is fined, in this State, not more than five hundred dollars, or imprisoned not more than three months, or both.

*Killing, or injuring*, or poisoning domestic animals belonging to another, or taking and using without leave, is punished by fine, or imprisonment, or both.

## LARCENY.

"Whoever steals anything of value is guilty of larceny and shall, if the value of the thing stolen is thirty-five dollars or more, be imprisoned in the penitentiary not more than seven years or less than one year, or, if the value is less than that sum, be fined not more than two hundred dollars, or imprisoned not more than thirty days, or both."—*O. Rev. Stat.*, 6856.

Some fine points arise in determining what constitutes a larceny. The felony lies in the very first act of removing the article, with felonious intent. If the thief, for an instant, obtain entire and absolute possession of the thing, the larceny is committed, although he may not subsequently remove it from the premises. A thief was on trial for stealing money from a drawer and the judge charged the jury that "If he had actually taken the money into his hand, and lifted it from the place where the owner had placed it, so as to entirely sever it from the spot where it was placed, with the intention of stealing it, he would be guilty of larceny, though he may have dropped it into the place in which it was lying, upon being discovered, and never have taken it out of the drawer." Held by the Supreme Court in *Eckels vs. State*, 20 Ohio State, 608, that this charge is correct.

Another difficult point arises in connection with lost property. If the finder, at the time of finding it, has reasonable ground to believe, from the nature of the property or the circumstances under which he found it, that, if he does not con-

ceal but deals honestly with it, the owner will appear or be ascertained, he will be guilty of larceny, if, at the time of taking the property into his possession, he intends to steal it. See "Law of Finding."

A partner can not steal partnership property.

Carrying another's property away and concealing it, and holding it for a reward to be offered for its return, is larceny in this State.

A thief who steals property in one county and is found with the property in another county, may be indicted and convicted in either county, but not in both.

*Horse Stealing.*—This form of larceny is covered by a special statute in Ohio, and also in many other States. The statute includes not only the thief but any one who receives or buys a stolen horse knowing it to be such, or knowingly conceals a horse thief, and prescribes a punishment of from one to fifteen years in the penitentiary. Receivers of stolen property, knowing it to be such, are deemed guilty of larceny and punished accordingly.

Stealing, destroying or secreting a will, either before or after the death of the testator, is punished by from one to ten years imprisonment in the penitentiary.

Maliciously obstructing a railroad, or displacing or injuring anything pertaining thereto, with intent to endanger the passage of any locomotive or car, is punished by from one to twenty years in the penitentiary.

#### MALICIOUS DESTRUCTION OF PROPERTY.

The malicious destruction of property not one's own, to the value of one hundred dollars or more, is punished by from one to seven years in the penitentiary; if less than that sum by a fine of not more than five hundred dollars, or imprisonment not more than thirty days, or both.



A special statute covers malicious destruction of trees and crops: thirty-five dollars or over, one to three years in the penitentiary; under that from five to one hundred and fifty dollars fine, or one to thirty days' imprisonment. There are other minor offenses against property, most of which come under the head of trespass, and are punished by various fines or imprisonments.

## CHAPTER V.

### *Offenses Against Public Peace.*

#### DUELING.

**P**RINCIPALS and seconds in duels, also he who challenges or accepts a challenge to fight a duel, or he who knowingly is a bearer of such challenge, all are punished by from one to ten years in the penitentiary,

#### PRIZE FIGHTING.

A principal in a fight is punished by from one to ten years in the penitentiary. Those who aid or assist or attend a prize fight, including backer, trainer, second, umpire or referee, assistant or reporter, are fined from fifty to five hundred dollars and imprisoned from ten days to three months.

In many other States the penalty is much lighter.

#### CARRYING CONCEALED WEAPONS.

"Whoever carries any pistol, bowie knife, dirk, or other dangerous weapon, concealed on or about his person, shall be fined not more than two hundred dollars, or imprisoned not more than thirty days, and for a second offense, fined not more than five hundred dollars, or imprisoned not more than three months, or both."—*O. Rev. Stat.*, 6892.

It will be observed that this statute reads "whoever carries." No one is excepted. A subsequent statute, however, Section 7317, *Rev. Stat.*, says:

"Upon the trial of an indictment for carrying a concealed weapon, the jury shall acquit the defendant if it be made to appear that he was at the time engaged in any lawful business, calling, or employment, and that the circumstances in which

he was placed were such as to justify a prudent man in carrying the weapon for the defense of his person, property, or family."

## RIOT.

When three or more persons assemble together to do an unlawful act, or, being assembled, do an unlawful act as aforesaid, they are guilty of riot, and shall each be fined not more than five hundred dollars, or imprisoned not more than thirty days, or both, and shall give security for good behavior and to keep the peace for one year.

It will be observed that three or more persons are necessary to constitute a riot. The necessary elements of riot are: 1. An unlawful assembling, or if lawfully assembled, then an unlawful and riotous agreement, then and there to do an unlawful act. A sudden quarrel or fight in a lawful assembly, as a theater or church, is not a riot, but an affray, but if they form into parties, upon a dispute arising, with promises of mutual assistance either express or implied, then the lawful assembly is turned into a riot. 2. Actual violence and force must be proved, or such conduct as is calculated to strike terror to the public mind. 3. The parties must assemble of their own authority. If they are assembled by authority of the law they may use any necessary force to enforce their mandate. 4. To convict, it must be proved that the defendants were present and actually participated in the disturbance. The law of riot is practically the same in all the States.

Willfully disturbing any lawful meeting is punished in Ohio by fine and imprisonment.



## CHAPTER VI.

### *Offenses Against Public Justice.*

#### PERJURY.

WHOEVER, either verbally or in writing, on oath lawfully administered, willfully and corruptly states a falsehood, as to any material matter, in a proceeding before any court, tribunal, or officer created by law, or in any matter in relation to which an oath is authorized by law, is guilty of perjury, and shall be imprisoned in the penitentiary not more than ten years, nor less than three years."—*O. Rev. Stat.*, 6897.

An incompetent witness may be lawfully convicted of perjury if the court at which he testifies falsely has jurisdiction of the subject matter and the parties.

If the oath is unlawfully administered, or by one having no authority to administer oaths, there can be no perjury.

The false testimony must be as to matter material to the issue. It was testified in an action of trespass for assault and battery that it was committed "near the plaintiff's door, on a mill-road running by there." An attempt to make perjury on the ground that "there was no mill-road within twenty yards," failed, as it was held the place was not material and the word *near* might reasonably mean twenty yards. False testimony before a marriage license clerk of the Probate Court is perjury.

#### SUBORNATION OF PERJURY.

This is the act of procuring or persuading another person to commit perjury. Under the act relating to aiders and abettors it is punishable in Ohio the same as perjury.

It is necessary to this crime that the defendant have a knowledge or belief not only that the witness will swear to what is untrue but that he will do so corruptly and knowingly. There must be a clear preponderance of evidence in favor of the prosecution in order to justify a jury in convicting of perjury. The mere belief of a witness will not be sufficient to convict. There must be more evidence than the testimony of one reliable witness to establish perjury, although the corroborative testimony need not be of sufficient force to equal the positive testimony of another witness, nor such as would require a jury to convict in a case in which one witness is enough, but as before stated there must be a clear preponderance of the evidence in favor of the prosecution.

If the defendant was greatly intoxicated at the time of the transaction, concerning which he is charged with swearing falsely, it is proper to submit this fact to the jury to aid them in determining whether the accused *knowingly* testified falsely.

#### FALSELY PERSONATING ANOTHER.

Falsely personating another before any court of record or judge thereof, or justice of the peace, or officer authorized to acknowledge deeds, grant marriage licenses, etc., with intent to defraud, is punished by from one to six years in the penitentiary.

#### BRIBING JURORS.

Whoever bribes a juror, referee, or appraiser, or any juror, referee, appraiser, etc., who accepts a bribe to influence his decision, shall be fined not more than five hundred dollars, or imprisoned not more than sixty days, or both.

#### BRIBING OFFICERS.

Whoever corruptly gives, promises, or offers to any public officer any valuable thing or service to influence him in his official duty, or any public officer soliciting or accepting any valuable thing to influence him, shall be imprisoned in the

penitentiary not more than five years, or fined not more than five hundred dollars, or both. A person convicted of this crime is disqualified from holding any public office or appointment under the State.

*Compounding Felonies* is a misdemeanor that is punished in Ohio by a fine ranging from twenty-five to three hundred dollars, or imprisonment for from ten to ninety days, or both. The crime consists in demanding or receiving any money, or thing of value, for compounding, or abandoning, or agreeing to abandon any prosecution threatened or commenced for any crime or misdemeanor. This law does not prevent any owner or agent from receiving back money or property stolen or embezzled from him.

*Aiding an Escape* of a prisoner confined for felony is punished by from two to three years in the penitentiary; if confined for misdemeanor, by a fine of from fifty to five hundred dollars, or not more than three months imprisonment, or both.

#### EXTORTION.

Any officer under the constitution or laws of the State, who knowingly demands, asks or receives any fee or reward, other than allowed by law, to do his official duty, or knowingly charges or receives any more or greater fees than allowed by law for such official duty, or permits others in his employ to do so, shall be fined not more than two hundred dollars or imprisoned not more than twenty days, or both.

An officer convicted of this offense forfeits his office, and is, for seven years, incapable of holding any office of honor, profit or trust in the State.

A notary who, knowingly, does any act as notary after his term has expired, shall be fined not more than five hundred dollars.



## CHAPTER VII.

### *Offenses Against Public Health.*

#### NUISANCES.

SEE definition. Nuisances are public and private. If the thing complained of affects only one person or family it is a private nuisance; if it is an offense to the whole neighborhood it is public.

The fine in Ohio for keeping a nuisance is five hundred dollars or less. The statute is especially directed to those nuisances which are injurious to public health, as buildings, trades or filth occasioning noxious exhalations or noisome smells, or impeded water-ways, etc.

Throwing dirt into rivers, lakes and ponds, obstructing ditches or drains and befouling wells or springs are all punished by fine or imprisonment

Selling diseased, stale, unwholesome or corrupt meat, or provisions is punished by fine and imprisonment.

## CHAPTER VIII.

### *Offenses Against Public Policy.*

#### PUBLISHING A LOTTERY.

**P**UNISHED by a fine of one hundred dollars.

*Selling Lottery Tickets.*—Fine not over five hundred dollars, or imprisoned not more than six months, or both.

*Promoting Lotteries.*—The owner, agent, etc., or one who sets on foot, carries on, backs, etc., is fined from fifty to five hundred dollars and imprisoned from ten to ninety days.

#### GAMBLING.

Keeping or renting a room for gambling is punished by fine of thirty to five hundred dollars, or imprisoned from ten to thirty days, or both.

Common gamblers, upon conviction, are subject to a fine of from fifty to five hundred dollars, and ten to ninety days' imprisonment.

*Betting on an election* is punished by a fine of from five to five hundred dollars, or ten days' to six months' imprisonment. Prosecutions must be commenced within a year. This statute is duplicated in most of the States and is openly and flagrantly violated in all.

#### SELLING INTOXICANTS TO A MINOR.

This is punishable by fine, or imprisonment, or both.

#### CRUELTY TO ANIMALS.

The States nearly all punish cruelty to animals, and the Ohio statute is very explicit. The punishment is a fine of from five to two hundred dollars, or imprisonment not more than sixty days, or both. In the large cities the law is quite

rigidly enforced by societies organized for the protection of animals.

## GAME LAWS.

Nearly all the States protect the game whose habitation is in their territory. Each one should familiarize himself with the game laws of his own State. They are essentially different in the different States, because game that is found in one may not be found in another.

*State officers or agents* are not permitted to have any interest in any contract, directly or indirectly, for the purchase of any property for the use of the State. Penalty is imprisonment in penitentiary for from one to ten years.

*Superintendents of Public Works* or others employed lawfully to superintend the erection, etc., of any public building, or to make any plan or specification therefor, or estimate the cost thereof, who knowingly defraud the State in respect to the work to be done, shall be imprisoned for from one to five years.

*Harboring a thief*, or robber, knowing him to be such, is punished by from one to seven years in the penitentiary.

## MISCEGENATION.

Intermarrying or carnal intercourse between a pure white and a negro, or person having a visible admixture of African blood, subjects both to a fine of not more than one hundred dollars, or imprisonment not more than three months, or both. And the same punishment is meted out to the probate judge who issues a license to such persons to marry, and to the minister or officer who solemnizes such marriage.

## VAGRANTS—TRAMPS.

A vagrant in Ohio is a male person physically able to work, who has not made reasonable effort to secure employment, or who has refused to labor at reasonable prices, and is

found begging or without any settled home. Vagrancy is subject to a fine not exceeding fifty dollars and hard labor in the jail until the fine is paid, at the rate of seventy-five cents a day. A tramp is a male person, not blind, who is found begging and asking subsistence or charity outside the county in which he usually lives. If a tramp enter a dwelling-house or yard without the permission of the owner or occupant, or is found carrying any fire-arms or dangerous weapon, or does or threatens any injury to the person or property of another, he shall be imprisoned in the penitentiary for from one to three years.



## CHAPTER IX.

### *Offenses Against Chastity and Morality.*

#### BIGAMY.

SEE definition. Punishment in Ohio is one to seven years in the penitentiary. The statute does not apply to any person whose husband or wife has been absent continually for five successive years next preceding such marriage without being known to such person to be living within that time. Open and mutual consent to a present marriage, and subsequent cohabiting as man and wife, constitutes a legal marriage in this State and most others, and persons married in this way, or by a person who had no authority to solemnize marriages, if they afterward cohabited as man and wife, have been convicted of bigamy for a second marriage while the first husband or wife was living.

#### INCEST.

"Persons nearer of kin by consanguinity or affinity than cousins, having knowledge of their relationship, who commit adultery or fornication together, shall be imprisoned in the penitentiary not more than ten years nor less than one year."—*O. Rev. Stat.*, 7019.

Consanguinity means relationship by blood; affinity means relationship by marriage.

*Emissio Seminis* is an essential ingredient in the crime of incest. The relation of stepfather and stepdaughter is within the statute; but this relationship is presumed to cease after the termination of the marriage relation of the stepfather and the stepdaughter's mother. In other words, cohabitation of a step-

father with his stepdaughter would not be incest if her mother was either dead or divorced from her stepfather.

"A male person over seventeen years of age who has carnal knowledge of an insane woman, not his wife, knowing her to be insane, shall be imprisoned in the penitentiary not more than ten nor less than three years."—*O. Rev. Stat.*, 7021.

#### ADULTERY AND FORNICATION.

"Whoever cohabits with another in a state of adultery or fornication, shall be fined not more than two hundred dollars, and imprisoned not more than three months."—*O. Rev. Stat.*, 7020.

It is not necessary that a woman with whom a man lives and cohabits should be a married woman in order to render him guilty of deserting his wife and living in a state of adultery with her. He is guilty of adultery, and she, being unmarried, of fornication.

*Seduction* under promise of marriage is punished by imprisonment in the penitentiary not more than three years, or in the county jail not more than six months.

The male must be over eighteen and the female under eighteen years of age, and she must be of good repute for chastity.

The defendant can not be allowed to prove specific acts of illicit intercourse by the prosecutrix with other persons; he can only attack her character by proof of her general reputation. The defendant is allowed to give in evidence previous acts of carnal intercourse by the prosecutrix with himself, not for the purpose of impeaching her character for chastity, but to show that the criminal act charged was not committed under a promise of marriage.

A house of ill-fame is made a public nuisance by statute in Ohio.

## OBSCENE LITERATURE.

Whoever sells or gives away, or has in his possession any obscene, lewd, or indecent, or lascivious book, picture, model, etc., or instrument or medicine for procuring abortion or preventing conception; or advertises the same for sale; or writes or prints, etc., or gives information where they can be obtained, shall be fined not more than one thousand dollars, nor less than fifty dollars, or imprisoned not more than one year, or both.

Sending any such literature by mail or carrying or conveying it, knowing its character, is punished the same as above.

Advertising secret drugs for the use of females, or cautioning females against their use when in a state of pregnancy, or publishing an account of any drug, or instrument for preventing conception or procuring abortion or miscarriage is punished as above.

## GRAVE ROBBERING.

This crime is punished by from one to five years in the penitentiary. Any one who assists in any surgical demonstration or anatomical dissection of any corpse so stolen, knowing it to be so obtained, shall be fined from one hundred to one thousand dollars, or imprisoned from six months to one year, or both.

## CHAPTER X.

### *Offenses Against the Right of Suffrage.*

#### BRIBERY.

**O**FFERING or receiving bribes for votes at any election held under the laws of the State relating to primary elections, is punished by a fine of from fifty to two hundred dollars, or imprisonment for from one to six months.

*Bribing, intimidating or corrupting* any elector at a public election authorized by the laws of the State, by giving or offering anything, or threatening any force to influence his vote, is punished by a fine of not over five hundred dollars, and imprisonment not over six months; and if it is a candidate and he was elected at such election, he may upon conviction be removed from the office by the court.

Voting, not being a resident of the State, or voting more than once at the same election, is punished by from one to five years in the penitentiary.

Voting, not being a resident of the county thirty days, is punished by imprisonment in the penitentiary from one to three years.

Voting, not being a resident of the voting precinct twenty days, is punished by a fine and imprisonment in this and nearly all the States.

Procuring another to cast an illegal vote, knowing he has no right to cast it, is punished by a fine of from one to five hundred dollars, and imprisonment for from one to six months.

But if a person brings another into another county for the purpose of casting his vote there, knowing he is not qualified



to vote in such county, the crime is a felony, and is punished by from one to five years in the penitentiary.

Deceiving an elector who can not read, as to his ticket, is punished by from one to three years in the penitentiary.

A judge of an election is not allowed, after the counting of the ballots has commenced, to postpone, or adjourn to another place, or remove the ballot box from the place of voting or from the custody or presence of all the judges of election, under a penalty of one hundred to one thousand dollars fine, and ten days imprisonment.

Judges of election who knowingly count any fraudulent vote, if the same can be designated, along with the legal votes, get from one to three years in the penitentiary.

Marking ballots to ascertain how any person votes, is punished by a fine not over fifty dollars, and not over ten days imprisonment.

## CHAPTER XI.

### *Frauds and Forgery.*

THE list of frauds punished by statute in this and other States is so large that it is impossible to go into details regarding each one. Some are felonies and some misdemeanors. We enumerate the most important and give the grade of crimes.

*Selling by false weights* is a misdemeanor punished by fifty dollars fine, or thirty days, or both. (For sake of brevity we give the outside limit of fines and imprisonment, the judge having the power to reduce the amount at his pleasure, unless a minimum limit is given.)

*Making or using false gas meters*, five hundred dollars, or thirty days, or both.

*Taking illegal toll* at a mill, twenty dollars and liable for damages.

*Selling article having forged stamp*, one hundred dollars.

*Making out and presenting false claims to public officers*, if the claim is for thirty-five dollars or more, from one to ten years in the penitentiary; if less than that sum, two hundred dollars, or thirty days, or both.

#### FALSE PRETENSES.

Obtaining property or signature by false pretense, if value of property or mercantile paper to which signature is obtained is thirty-five dollars or over, one to three years in the penitentiary; if less than that sum, ten to one hundred dollars fine, or ten to sixty days, or both.

This subject of false pretense is one of the most important in the list of crimes. It is one perhaps more frequently prac-

ticed than any other larcenous crime except larceny itself. A false pretense, within the meaning of the statute, and also at common law, must relate to a past event or an existing fact. Any representation or assurance in relation to a future transaction is not included. There are three necessary elements which an indictment must clearly state and charge in order to hold one accused of obtaining property by false pretenses: 1. The making of some false pretense. 2. The obtaining thereby from another person some item of money, goods, merchandise or effects. 3. That the same was obtained with intent to cheat or defraud the person from whom so obtained. If the offense consists in obtaining the signature of a person to a note or other evidence of indebtedness, the *amount* of the note and not its *value* will determine the grade of the offense. For instance, if A, by false pretense, procure the signature of B, who is notoriously insolvent, to a promissory note, the crime would be complete, although the note be worthless. The crime would be a felony in Ohio if the amount of the note were thirty-five dollars or more; if less than that, misdemeanor.

*A contract for the loan of money*, induced by false pretenses of the borrower, falls within the statute.

*A partner* who is guilty of fraud in the affairs of the partnership, is fined five hundred dollars, or imprisoned six months, or both, and is liable to the party injured to the extent of his damage.

*Selling or conveying land without a title*, with intent to defraud, is punished by from one to seven years in the penitentiary.

*Making fraudulent transfers* of property to defeat creditors, twenty to five hundred dollars fine, or ten days, or both.

*Executing and delivering false and fraudulent bills of lading, receipts, schedules, etc.*, one to four years in the penitentiary.

*Executing and delivering false and fictitious warehouse receipts*, one to three years in the penitentiary.

#### FORGERY.

(See definition.) The Ohio statute on the subject of forgery is exhaustive and too lengthy to be given here in full. The words used to cover the ground of "forging" are, "whoever falsely makes, alters, forges, counterfeits, prints or photographs." The instruments subject to this crime are, "any record, or other authentic matter, of a public nature, or any license or certificate authorized by the laws of this State, or any charter, letters patent, deed, lease, writing, obligatory, will, testament, annuity, bond, covenant, bank-bill or note, check, bill of exchange, contract or promissory note, or any acceptance of a bill of exchange, or the number or principal sum of any accountable receipt for any note, or any order, warrant or request for the payment of money, or the delivery of goods or chattels, or any acquittance or receipt for money or goods, or any release of any debt, account, action, suit, demand, or any plat of land, or transfer of money, stock or other property, or any letter of attorney, or power to receive money, or to receive and transfer stock or annuities, or to lease or convey real or personal property of any kind, or any bill or warrant drawn by any auditor for the payment of money at any public treasury," etc. It must be "with intent to defraud." The statute includes the uttering or publishing of any such false or forged matter, and makes the crime forgery, punishable by from one to twenty years in the penitentiary.

Cutting out the words "one dollar" from a bank note and artfully substituting blank paper, on which is afterward written "ten dollars," and substituting "ten" for "one" in the margin, with intent to defraud, is forgery under the Ohio statute.

An endorsement of a promissory note is the subject of forgery in Ohio and perhaps in all the States.



Notes are sometimes signed in blank and marginal figures entered to indicate the amount for which the note is to be filled up. Where the person entrusted with filling up and negotiating the note changes the marginal figures and fills the note up for a larger amount than was intended by the maker, it is no forgery of the note.

A forged instrument was in the following form: "Wen. 19th. Mr. Davis: Pleas let the boy have \$6.00 dolers for me. B. W. Earl." This instrument is held to be *prima facie* an order for the payment of money and therefore within the statute. Jones wanted to defraud Brown and procured Smith, an innocent party, to sign Brown's name to a promissory note, by falsely representing to Smith that Brown had authorized him to do so. *Held*, that Jones was guilty of forgery.

A forged paper read as follows: "Mr. Westphal, pleas let me have the loan of twenty dolers till Saturday nite. Frank Hall." *Held*, that this is not an order or request for the *payment* of money within the meaning of the statute. The young negro who perpetrated this clever swindle got sixty days in the Cincinnati Work House and \$100 fine for obtaining money under false pretenses, the full extent of the law.

An indictment charged a person with forging a transfer of a bill of exchange, which had not been endorsed by the payee, by falsely endorsing thereon a stranger's name. The indictment is bad, because if the endorsement were genuine it could not operate as a transfer of the bill. This follows from the rule of law which states that the forged instrument must be such that, if genuine, either of itself or in connection with the extrinsic facts averred, it would be valid to defraud or prejudice the rights of the party thus named.

The forged instrument should always be produced at the trial, if possible, but if it has been lost, the prosecutor may show the fact, and then he may produce secondary evidence of the forged instrument.

*Using the fac-simile signature* of the Governor of the State to any paper purporting to be a public document, with intent to defraud, is made forgery by special statute. Forging or altering railroad or toll-bridge tickets, or having such in possession, with intent to defraud, is punished by not more than five hundred dollars fine, or six months' imprisonment, or both.

*Altering and defacing* public documents, or abstracting or concealing the same, is punished by a fine not exceeding three hundred dollars, or not more than three months imprisonment, or both.

*Forging a brand, stamp or trade-mark* usually affixed by any person to his goods, wares, merchandise, etc., with intent to palm off any goods, etc., to which such forged copy or likeness is affixed as the goods, etc., of such person, is punished by a fine of not more than five hundred dollars, or imprisonment not more than twelve months, or both.

#### COUNTERFEITING.

Nearly all the States have laws providing for the punishment of counterfeiting, but few cases come under the State courts in late years, as all the money of the country, gold, silver and paper, is issued under the direction and supervision of the United States Government, and infractions of the United States law against counterfeiting are always brought in the United States courts. For this reason we will give the United States law on the subject of counterfeiting. It is comprised in three sections, one relating to counterfeiting national bank notes, one to gold and silver coin, and one to the minor coins.

*National Bank Notes.*—"Every person who falsely makes, forges, or counterfeits, or causes or procures to be made, forged, or counterfeited, or willingly aids or assists in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be in imitation of, the circulating notes issued by any banking association now or hereafter authorized and acting

under the laws of the United States; or who passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited note, purporting to be issued by any such association doing a banking business, knowing the same to be falsely made, forged, or counterfeited, or who falsely alters, or causes or procures to be falsely altered, or willingly aids or assists in falsely altering any such circulating notes, or passes, utters, or publishes, or attempts to pass, utter or publish as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, by any such banking association, knowing the same to be falsely altered or spurious, shall be imprisoned at hard labor not less than five years, nor more than fifteen years, and fined not more than one thousand dollars."—*U. S. Rev. Stat.*, 5415.

*Gold or Silver Coin.*—"Every person who falsely makes, forges, or counterfeits, or causes, or procures to be falsely made, forged, or counterfeited, or willingly aids or assists in falsely making, forging, or counterfeiting any coin or bars in resemblance or similitude of the gold or silver coins or bars which have been, or hereafter may be, coined or stamped at the mints and assay-offices of the United States, or in resemblance or similitude of any foreign gold or silver coin which by law is, or hereafter may be made, current in the United States, or are in actual use and circulation as money within the United States, or who passes, utters, publishes or sells, or attempts to pass, utter, publish, or sell, or bring into the United States from any foreign place, or has in his possession, any such false, forged or counterfeited coin or bars, knowing the same to be false, forged, or counterfeited, shall be punished by a fine of not more than five thousand dollars, and by imprisonment at hard labor not more than ten years."—*U. S. Rev. Stat.*, 5457.

*Minor Coins.*—The section in regard to minor coins is essentially the same as the preceding, excepting as to the coun-

terfeiting of foreign coin current in this country, which is omitted, and, as to the punishment, the fine shall not exceed one thousand dollars, and imprisonment at hard labor not more than three years.

Section 5430 provides for the punishment of any one who may use the government plates to print notes except for the government and by order of the proper officer; also for the punishment of any one who may engrave, or cause to be engraved, or assist in engraving any plate in the likeness of any plate designed for printing government obligations or securities; also for the punishment of any one who sells, or has in his possession, or brings in from any foreign country, except by lawful authority, any such plate; also for the punishment of any one who prints, or photographs or makes any impression or print in the likeness of any such obligation or security; the punishment in all these cases is a fine not exceeding five thousand dollars, or imprisonment at hard labor not more than fifteen years, or both. This section has been re-enacted in substance by the Ohio Legislature.

*Postage Stamps.*—Counterfeiting postage stamps, or stamps on stamped envelopes, or on postal cards, is punished by a fine not exceeding two thousand dollars, or imprisonment at hard labor not more than five years, or both.

*Mutilating Coins.*—Mutilating, defacing, impairing or lightening the gold or silver coins of the United States, or any foreign coins current in the United States, is punished by a fine of not more than two thousand dollars, and imprisonment not more than two years.

*Gilding Coins.*—The State of Ohio has a law, Section 7100, Revised Statutes, punishing the gilding of any coins passing current in the State, so as to give it the appearance of any of the gold coins of the United States, or any other gold coins passing currently in this State, with intent to defraud, or pass-



ing or putting into circulation any such false or gilded money, knowing that it is not genuine. The punishment is imprisonment in the penitentiary not more than five years nor less than one.

The State of Ohio also has a statute, Section 7101, providing for the punishment of any one who falsely makes, forges, counterfeits or alters any stamp, note, bond, coupon, postage or fractional currency, or other security, issued under the authority of any act of Congress. The punishment is the same as provided by the United States for the same offense, a fine of not more than five thousand dollars, and imprisonment not more than fifteen years.

This completes the list of the most important felonies and misdemeanors. There are some others provided for by special statute in this State, but as they are of a local character, principally special acts relating to the conduct of State institutions, or to the punishment of persons who, in some way, interfere with public institutions or their inmates, they have no general interest and are omitted. The definitions of crimes that we have given will be found correct in all the States, and the crimes themselves are of a general character, punishable by the laws of all States, though the amount of punishment varies in many instances.

We will next take up the relation of detective work to crime, the duties of officers, the rights and privileges of private detectives and citizens, and endeavor to cover briefly so much of criminal procedure as it is important for constables, detectives, sheriffs and all arresting officers, and in fact everybody, to know.

# HOW TO PROCEED.

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## CHAPTER I.

### PREVENTION OF CRIME.

**I**T is really more important to prevent crime than to punish it. The principal object of punitive laws and institutions is to protect society, and at the same time to work out as far as possible, the reformation of the culprit himself; also to have a restraining influence upon others, whose natural depravity or stress of circumstances might incline them to the commission of crime.

Sometimes the extreme gravity of the crime demands the entire removal of the offender from society, as in the case of murder in the first or second degree. In this case the reformation of the criminal is dropped entirely out of view, and the protection of society becomes a matter of supreme moment, justifying in the eye of the law, the entire removal of the criminal either by death or life imprisonment.

These deterrent means of preventing crime are more successful perhaps than would at first thought appear.

If punishment for infractions of the law were removed the increase in crime would be appalling to contemplate. At the best these means of preventing crime are indirect and it must be admitted that the positive processes of the law for the prevention of crime are very few and of little force except in misdemeanors. The first and most important of the positive measures of the law to prevent crime is the

## PEACE WARRANT.

A peace warrant is an instrument issued in the name of the State to the sheriff or any constable of the county, or if issued by an officer of a municipal corporation, then to the marshal or other police officer of such corporation, commanding him to arrest the person complained of and to take him before the magistrate issuing the warrant, or some other magistrate of the same county, to answer the complaint.

The circumstances which justify the issuance of a peace warrant, are a complaint made in writing, and upon oath before a justice of the peace, mayor, or police judge, that the complainant has cause to fear, and does fear, that another person named will commit an offense against the person or property of himself, or of his ward or child. The magistrate must then issue the warrant.

The officer charged with the arrest must bring the accused before the magistrate, who will examine the complaint, hearing all witnesses and the defendant upon oath, and if he is not satisfied that there is just cause for the complaint he shall discharge the accused and render judgment in favor of the State against the complainant for the costs of the prosecution and issue execution therefor.

The accused may waive trial before the magistrate and enter into recognizance with security for his appearance at court. The magistrate should, however, in this case investigate the complaint far enough to satisfy himself as to the nature of the offense it is feared will be committed with a view to fixing the amount of bail. The amount fixed by law in Ohio is not less than fifty and not more than five hundred dollars. The magistrate should be guided by the heinousness of the offense, the probability that it will be committed if no bail is required, and the ability of the accused to give bail. His object should be to

preserve the peace and require such bail as in his judgment under the circumstances will accomplish that end.

Having decided the amount of bail to be given, either after full examination of the complaint or when the accused waives trial, he shall commit the accused to jail if he fail to give the requisite recognizance, to remain until discharged by due course of law.

The accused is entitled to trial at the first term of court unless there is good cause for continuance.

If the complainant fail to prosecute the case in the upper court the accused shall be discharged, or if upon a hearing under oath the court is of the opinion that there is not just cause for complaint, the accused shall be discharged and judgment entered against the complainant for costs, and award execution therefor. But if the court finds good cause for the complaint, the accused shall be ordered to enter further security, for such time as may be just, to keep the peace and be of good behavior, and judgment is rendered against him for the costs, and execution awarded therefor.

A magistrate, mayor, or police judge may, without process or other proof, order any one to give security to keep the peace, who creates a disturbance in his presence, or threatens to beat or kill another, or contends with hot and angry words.

Any person convicted of a misdemeanor may be required by the court to enter into recognizance to keep the peace for such time as the court may direct, not exceeding two years.

*Threatened Prize Fight.*—Any sheriff, constable, marshal or police officer who has reason to believe that any one is about to engage in a prize fight in his bailiwick, either as principal or second, shall forthwith arrest him and take him before a judge of the common pleas, or magistrate, where a hearing shall be had as before described, and if the complaint is found true, the accused shall enter into a recognizance, with sureties.



in a sum not less than five hundred, and not more than ten thousand dollars, that he will not engage in any such fight within one year, in this State or elsewhere. If he fails to give the bail he must go to jail, but may be released upon his own recognizance in a similar amount after one month's confinement.

## SEARCH WARRANT.

There are four objects for which a magistrate, mayor, or police judge, may issue a warrant ordering an officer to search any house or place:

1. For property stolen, taken by robbers, embezzled, or obtained under any false pretense.

2. For forged or counterfeit coins, stamps, imprints, labels, trade-marks, bank bills, or other instruments of writing, and dies, plates, stamps, or brands for making the same.

3. For books, pamphlets, ballads or printed papers, containing obscene language, prints, pictures, or descriptions, manifestly tending to corrupt the morals of youth, and for obscene, lewd, or indecent, or lascivious drawings, lithographs, engravings, pictures, daguerreotypes, photographs, stereoscopic views, models, or casts, and for instruments or articles of indecent or immoral use, or instruments, articles, or medicines for procuring abortion, or for the prevention of conception, or for self-pollution.

4. For any gaming table, establishment, device, or apparatus kept or exhibited for the purpose of unlawful gaming, or to win or gain money or other property, and for any money or property won by unlawful gaming.

*An Affidavit Necessary.*—Before a magistrate or other officer issue a search warrant there must be filed with him an affidavit, particularly describing the house or place to be searched, the person to be seized, and the things to be searched for, and alleging substantially the offense in relation thereto,

and stating that affiant believes, and has good cause to believe, that such things are there concealed.

The search-warrant is sometimes a very effective method of preventing crime, as it oftentimes secures the implements with which crime is committed and thus prevents their further use.

The warrant should contain a copy of the affidavit.

The accused has a right to have the warrant and affidavit read to him. The warrant should order the search to be made in the day-time, unless there is urgent necessity for a search in the night, in which case a search in the night may be ordered. The warrant must say whether the search is to be made in the day or night.

If the search discovers the articles desired, they are kept by the magistrate issuing the warrant as evidence.

If the accused is discharged, the articles taken shall be returned to him; if convicted, they shall be returned to the proper owner if stolen, and the other things destroyed under direction of the court.

For right to break doors see same subject under Arrest.

These two instruments, the peace-warrant and the search-warrant, are almost the total machinery of any State for the active and direct prevention of crime.

## CHAPTER II.

### WHO MAY ARREST.

**A**RRRESTS are made with and without warrants. The general rule of law in all the States is set forth in the Ohio Statute, Section 7129: "A sheriff, deputy sheriff, constable, marshal or deputy marshal, watchman or police officer, shall arrest and detain any person found violating any law of this State, or any legal ordinance of a city or village until a legal warrant can be obtained."

It will be observed that this statute relates to the arrest of a person found in the act of violating a law. If an officer finds a person in possession of an article which he has stolen previously, that will be in the law a sufficient finding of him in the act of committing a larceny, and he may be arrested without a warrant. But the officer must know, of his own knowledge, that the article is stolen. It will not do for another to tell him. He can not act on that. But if the thief admit that the article is stolen, he may arrest him without warrant. A full and interesting discussion of this subject will be found in Judge Mathews' charge to the jury in the Belch case, which is given in another place.

If an officer is resisted by the person whom he is attempting to arrest, the amount of force he may use depends upon the grade of the crime for which he is arresting the person. If the crime committed is a felony, all the force necessary to effect the arrest may be used, even to shooting, and if the criminal is killed, it will be his own fault. It must be absolutely necessary, however, to shoot to effect the arrest in order to justify the officer in doing so.

In this connection three questions of importance arise:

1. When an officer may arrest without a warrant.
2. What constitutes finding a person in the act of violating the law.
3. When may an officer shoot at an escaping prisoner.

Early in the year 1887 a case came up in the courts of Cincinnati that beautifully illustrates the law on these points, and we think students of this subject will be benefited and interested by the charge of Judge Samuel R. Mathews to the jury in the case.

The circumstances were as follows: Kendrick L. Belch was a policeman, belonging to the Cincinnati Police Force. A colored man named Brown had stolen a coat in Kentucky from a man named McBee, and brought it into Ohio. Belch, while in the regular performance of his duty, undertook to arrest Brown for the larceny of the coat without a warrant. Brown fled and Belch shot and wounded him with a mortal wound from which he died. Belch was arrested and put upon trial for manslaughter. Following is the most important part of Judge Mathews' charge to the jury before they retired to make up their verdict.

#### JUDGE MATHEWS' CHARGE.

"The act complained of on behalf of the State is the firing of a pistol loaded with ball at the person of James Brown by the defendant, Belch, under circumstances which the law did not justify him in doing. After that act of the defendant is shown by the evidence and found and ascertained by the jury, the question of whether or not it was an unlawful act is for the court to determine, under the laws of the State. And I will say to you, right here, that if the shooting of a pistol loaded with ball at the person of James Brown, by this defendant, is proved to your satisfaction or is admitted on all hands, and if death resulted from the wound received from that pistol ball,



then, unless the defendant was acting in some way or in some capacity authorized by law to justify him in firing that pistol at him, under the circumstances, then the crime is made out, and it will be your duty to find him guilty of manslaughter as charged.

"Now there are two defenses suggested in the evidence and the arguments of counsel, in case the jury should find that the act complained of was committed, which, it is claimed, justified the defendant in discharging his pistol at Brown at that time.

"The first is, that the defendant was acting in his just and necessary self-defense at the time he fired the pistol and inflicted the wound.

"The second is, that whether that be so or not, he was a police officer of the City of Cincinnati at that time, and, as such, duly authorized to arrest offenders against the laws of the State and offenders against the municipal ordinances of the city; that he was on duty at that time; that he wore the insignia of his office, to-wit, his uniform and his badge, visible to all persons. That he undertook to arrest Brown, the deceased, for a crime known to the laws of the State of Ohio; that he did, in fact, arrest him, and that Brown attempted to escape from that arrest and fled, and that thereupon he was justified in firing at him for the purpose of resuming his arrest and recapturing his person in order to subject him to criminal prosecution for a charge against the laws of the State of Ohio."

Then followed a definition of self-defense and when it justifies a homicide, the substance of which is that it is only in a case wherein the slayer, in the careful and proper use of his faculties, in good faith believes and has reasonable grounds to believe that he is in imminent danger of death or great bodily harm at the hands of the person slain, and this must be shown to the jury by the one who seeks to justify himself on this ground by a fair preponderance of the testimony.

Then the court took up the questions for the elucidation of which we introduce this charge here :

"The next question raised by the defense is this: That Brown, having been charged by McBee with the crime of larceny, and his arrest having been requested of this defendant, who was then a police officer on duty on that beat, that the defendant undertook to arrest Brown in order to subject him to prosecution for that offense.

"And the question has been raised here as to the legality of the arrest, if an arrest was made. Whether an arrest was made by the defendant of Brown or not, is a question of fact for you, under certain principals of law to which I will call your attention in a moment. But the question of law has been raised. The State claims that for the offense charged the officer had no right to arrest Brown without a warrant. And it was confessed that no warrant had been issued for the arrest of Brown.

"The law of this State is found in the code regulating criminal procedure (Sections 7129 and 7130), and declares that a Sheriff, Deputy Sheriff, Constable, Marshal or Deputy Marshal, watchman or police officer shall arrest and detain any person found violating any law in this State, or any local ordinance of a city or village, until a legal warrant can be obtained. That, you will observe, gentlemen, authorizes the officers named in it—and that includes a police officer of the City of Cincinnati, in which capacity this defendant was acting at the time—to arrest and detain any person found violating any law in this State or any local ordinance of a city or village, that detention to last until a legal warrant can be obtained. The violation of the law requires, gentlemen, that in making arrests, as a general rule, a warrant must be first obtained, duly issued by the officers intrusted by the law of the State with that duty, and that warrant can only issue

upon an affidavit being filed before that officer, stating and showing to the satisfaction of that officer that an offense against the laws of the State has been committed by the person named in it. That is the general rule. Every person charged with crime must be arrested under a warrant of that kind, obtained upon an affidavit issued by a magistrate or other officer authorized by law to issue warrants; and the issuance of the warrant is not a matter of right, because it is made the duty of the officer before whom that affidavit is filed and to whom application is made to issue a warrant to examine to see whether or not there is probable reason to believe that an offense has been committed before he is required to, or, indeed, justified in issuing a warrant.

“There are, however, certain exceptions to that general rule, and one of them is contained in the section to which I called your attention: That these officers, among whom police officers of the City of Cincinnati are—in which category the defendant is found—shall arrest and detain any person found violating the laws of the State, or a local ordinance of a city or village. What does it mean, gentlemen? In what cases has a police officer the right to arrest without a warrant? Because the right to arrest, under that section, is as broad as the law. It is not confined to any particular class of cases, as felonies and misdemeanors. Our law divides all classes of criminal offenses into two classes, felonies and misdemeanors. Felonies are those offenses which the Legislature has provided punishment for by confinement in the State Penitentiary, or death, as in the case of murder in the first degree.

“Misdemeanors are all offenses for which a less punishment than that is provided. Now, an officer named in Section 7129 has power to arrest in the case there supposed, even for a misdemeanor, as well as felony, and for all violations of the ordinances of the city; but it is only in case that a person is

found violating one, and that is found by himself, which, in the old law, was clear, actual view. In other words, if an officer saw a person committing a crime against the laws of the State, whether it was a felony or a misdemeanor, or against the ordinance of the city, he had power to arrest him without a warrant, because he was found committing it. It is not claimed, however, in this case, that this defendant found this Brown in the commission of any offense at the time he undertook to arrest him, if he undertook to arrest him at the time he first went to the saloon in question. The allegation on behalf of the defendant is that the crime with which Brown was charged was the stealing of a coat, the value of which has been put by the man who claims to have owned it at \$6 or \$7, and that that coat was brought by Brown into the State of Ohio, and that, therefore, there was an offense committed by Brown in the State of Ohio. The law with regard to that, gentlemen, is this: If a man steals in the State of Kentucky an article of personal property, he is guilty of larceny there. If he brings it into Ohio, and remains in possession of it in Ohio, he is guilty of larceny in Ohio as well, that being what we call a 'continuous larceny.' He is guilty of possession in Ohio, which is equivalent to the original stealing.

"Larceny is divided by the law of this State into two kinds, grand and petit. Grand larceny is where the amount stolen is \$35 or upward, and petit larceny is where the amount stolen is below that. Grand larceny is a felony and petit larceny is a misdemeanor under the laws of this State. Now I charge you, with regard to the validity of the arrest on that charge by this defendant, that information merely conveyed to him was not sufficient to warrant him in making an arrest, without a warrant duly issued from the proper officer. But if he found this man in possession of a coat that would be sufficient finding by him of Brown in the commission of petit larceny within



this State, and would justify him in arresting him. That is a question of fact for you to determine, gentlemen, whether he acted simply upon information conveyed to him by those colored men, McBee and the other, who made complaint, or whether he had any information other than that, which would enable him to say that he saw or found Brown in the commission of that offense of stealing the coat. If he did not, if he acted merely upon the information of these outsiders, no matter whether that information was correct or incorrect, he had no right to make the arrest without a warrant.

"It is not necessary that the defendant should have actually seen the goods, or that they should have been in the manual possession of Brown at that time. It is sufficient if Brown brought them into the State of Ohio, and had them in his constructive possession. If he had them in his room, where he slept, or if he had them in any other place where they were subject to his control, they were just as much in his possession, in contemplation of law, to render him guilty of larceny, as they would be if he had the coat in his arms or on his back. The officer had no need to see Brown in actual possession, if he knew from Brown's statement, or from the facts that existed there, not from the mere statement of the prosecuting witness in such a case as that, but if he had knowledge of his own—because the statute authorized him only to act upon his own knowledge. If he had knowledge that Brown was in possession, it is not necessary that the goods be actually there.

"For instance, if Brown should have confessed to the officer that the goods were in the State of Ohio; that he had stolen them in the State of Kentucky and brought them to the State of Ohio, and that they were still here subject to his order and control, it would be sufficient to find him in the actual perpetration of the crime, within the meaning of this statute, and to authorize him to make the arrest.

“You will observe, gentlemen, that I have said to you that if the value of the clothes as sworn to—and that is a question of fact for you to find—was under \$35, the crime, if it was a crime in the State of Ohio, was that of petit larceny, which is a misdemeanor in this State. It is alleged, and there is testimony tending to show that when the officer showed himself in pursuance of a former agreement entered into between him and the complaining men, McBee and his friend, in this saloon, that Brown took to his heels and attempted to escape, went out the side door into the hall, court, or area, and back through a passageway which has been described to you and which you have had an opportunity of seeing—I have not—out onto the street in the rear of these premises, where the final scene took place. That upon this flight the officer pursued, upon which the man Brown took a bar which served as a fastening for that door, and, as is claimed by counsel in the argument, committed an assault upon the defendant by throwing that bar at him. You have heard the evidence upon that subject, gentlemen. Whether or not that bar was thrown by Brown at the defendant with the view to striking him, or whether it was simply taken out of its place as a fastening to the door and dropped upon the floor, in order to make his exit you will determine that fact. If you find, however, that Brown simply took it out and dropped it, that was no assault. If he threw it at the defendant with the intent to strike him, and was within striking distance, then it was what in law is called an assault, even though the defendant was not struck. But an assault on a man is, in itself, a misdemeanor, and not a felony. That is, it is not punishable by imprisonment in the penitentiary, but only by confinement in the work-house. Bear this distinction in mind, gentlemen, because it becomes important after a while.

“It is then stated in evidence, with what truth you are to determine, that after Brown started out the door, running, the

defendant followed him in a run, pursuing him; that as Brown made his way through the yard in order to get out the rear, he had to ascend a small flight of steps; that on top of them, or at the bottom of them, I don't know which, he slipped and fell, and that when he fell the defendant caught up to him and put his hand upon him, and then it is claimed, on behalf of the defendant, that he arrested him. An arrest, gentlemen, in law is the taking into custody a person in pursuance of a legal command or authority. Mere spoken words will not constitute an arrest, there must be something in the way of physical constraint, though it is enough if the party making the arrest may touch the other, even with the end of his finger.

"When he came to the steps it is claimed that when the man was down the officer put his hand upon him, and that Brown produced a razor and threw it at the defendant. There is a question of fact that you will have to determine. In the first place, did he throw such razor? If so, with what intent and under what circumstances? If he threw it at him under circumstances which justify you in believing that he intended to kill the defendant or to inflict a wound upon him; if, from consideration of the nature of the instrument and the manner in which it was thrown, you come to the conclusion that it was thrown by Brown, and it was thrown with intent either to wound or to kill the defendant, then it was a felony committed by Brown. Because an assault with an intent to kill or wound is punishable by imprisonment in the State Penitentiary, and is, therefore, a felony. And these distinctions are important, gentlemen, to keep in view, to determine what the right of the defendant was in pursuing Brown and firing this shot at him. If he pursued him simply to recapture him, take him into custody, for the purpose of making him answer to the alleged larceny of those goods, then he was pursuing him with intent to arrest him for a misdemeanor, and then he had no right to fire a shot at him, unless it was in his necessary self-defense.

"The other question of his right, as a police officer, to fire at an escaping prisoner does not arise. But if you find that there was no self-defense upon the part of this defendant, and the question turns upon his lawful authority as a police officer, I charge you that if he undertook to arrest Brown, who was escaping from him, then, if he undertook to arrest him for a misdemeanor as I have described to you, he had no authority in law to fire at him with a loaded pistol, and if he did so he committed an unlawful act; and if the consequence of that unlawful act was the death of Brown the defendant is guilty of manslaughter. If, however, he pursued him with intent to take him into custody for a felony, that is to say, for assault with intent to kill or wound, then he would have, under certain circumstances, a right to pursue him to that extent, even to use his pistol, in order to stop him and to effectually make his capture. The law discriminates between offenses of a great nature and offenses of a slight nature. Where a felony has been committed, either if the officer has a warrant for the arrest of the person or if the felony has been committed in his presence, in his actual view, then he has a right to pursue and capture the man at all hazards; and if the guilty party who is seeking to escape from the lawful authority of the officer loses his life, either in the struggle that may take place when they are hand-to-hand together, or in attempting to escape at a distance, it is at his own risk.

"In cases of a felony, if an escaping prisoner may be retaken without the firing upon and killing him, it is the duty of the officer so to do. And it is always the duty of the jury, in such cases as that, to inquire as to the necessity for the act which produced the death; whether or not, under the circumstances, the escaping party could have been secured without firing upon and killing him or wounding him. If he could, then the officer was not justified in so firing. Otherwise he would be."



This clear and able charge emphasizes the points we stated in the opening of this chapter. Any of the officers named may arrest any person found in the commission of a crime, either felony or misdemeanor, without a warrant.

An officer in attempting to arrest a person in the first instance, or to re-arrest him after an escape, may use all *necessary* force to effect an arrest even to shooting, *provided* the offense for which the arrest is made is a felony. If it is a misdemeanor he must not shoot or use such violent means as to endanger the man's life, else he will find himself in the unfortunate position of Officer Belch, languishing in the penitentiary for manslaughter, for the jury convicted him of that crime.

*When any one may arrest.*—When a *felony* has been committed any person may, without warrant, arrest another who he believes, and has reasonable cause to believe, is guilty of the offense, and may detain him until a legal warrant can be obtained. Any one who finds another in the act of committing a felony may arrest him at once without a warrant.

Observe the word *felony*. This is the class of crimes for which *any one* may arrest without a warrant. This means that a private citizen, private detective, officer, or, in fact, any one who believes a certain person to be guilty of a felony, may arrest him without a warrant. But simply believing is not enough. He must have reasonable grounds for his belief. A mere suspicion will not do. There must be such important circumstances or evidence as would lead a reasonable man to believe that the person had committed the crime. As soon as possible after the arrest is made, a warrant must be procured. It is always best to procure the warrant before making the arrest if the circumstances will permit. If there is no danger of the one suspected of crime, or known to be the criminal, escaping, or of a continuation or aggravation of the crime, the warrant should be procured first.

*A warrant.*—(See definition.) Any officer authorized to issue a peace warrant may issue process for the apprehension of any person charged with an offense. This process is called a warrant. It must always be based upon an affidavit charging a person with the commission of an offense. The warrant does not issue of right, however, upon the simple filing of an affidavit with the magistrate. It is his duty to issue the warrant if he has reasonable ground to believe that the offense charged has been committed. If he has not he may refuse to issue the warrant.

#### FORM OF AFFIDAVIT.

The following form of affidavit will be sufficient in perhaps all the States:

The State of Alabama, }  
Jefferson county, } ss.:

Before me, Simeon Bowles, personally came Elias Honshall, who, being duly sworn according to law, deposes and says that on or about the 12th day of August, 1889, at the county of Jefferson, one John Koloseus [*here describe the offense committed as accurately as possible.*]

ELIAS HONSHALL.

Sworn to and subscribed before me this 14th day of August, 1889. SIMEON BOWLES, Justice of the Peace.

The warrant is directed to the sheriff or any constable of the county, or if it is issued by an officer of a municipal corporation, then to the marshal or other police officer. It must recite the affidavit, or have a copy of it attached to it, and referred to. It commands the officer forthwith to take the accused and bring him before the magistrate or court issuing the warrant, or some other magistrate of the county having cognizance of the case, to be dealt with according to law.

## FORM OF WARRANT.

The State of Alabama, }  
 Jefferson county, } ss.

To any constable of said Jefferson county, greeting:

WHEREAS, There has been filed with me an affidavit, of which the following is a copy: [*Here copy the affidavit.*] These are, therefore, to command you to take the said John Koloseus, if he be found in your county, or, if he has fled, that you pursue after him into any other county in the State, and take and safely keep the said John Koloseus, so that you have his body forthwith before me, or some other magistrate of said county, to answer the said complaint, and be further dealt with according to law.

Given under my hand, this 14th day of August, 1889.

SIMEON BOWLES, Justice of the Peace.

As indicated in the warrant, if the accused has fled or removed to another county, the officer may follow and arrest him there and convey him back to the county in which the warrant was issued. The warrant may be issued by a magistrate in the county to which the accused has fled or removed.

The arresting officer has the authority and the power to convey the prisoner back to the county where the crime is alleged to have been committed without any process of law.

*Breaking Doors.*—The arresting officer, who is executing a warrant for a person charged with an offense, or a search-warrant, may break open any outer or inner door or window of a dwelling house, or other building, if he be refused admittance after giving notice of his office and purpose. But in the case of a search-warrant the officer is not authorized to enter any house or building not described in the warrant.

*The Examination.*—The prisoner being brought before the magistrate, the officer who made the arrest should make the

following return or memorandum on the warrant, and deliver it to the magistrate :

August 15th, 1889. I took the body of the within named John Koloseus, and have him before the magistrate within named. [*Or if he took him before some other magistrate, name him.*]  
PETER JACKSON, Constable.

The examination of the prisoner should then be held without delay, unless there is some just cause why it should be postponed. If there be just cause for postponing, the magistrate may commit the accused to the county jail for safe-keeping until the cause of the delay is removed and no longer, but the whole time of such confinement (in Ohio) shall not be more than four days. The magistrate, also, has the power, at his discretion, in case of necessary postponement, to remand the prisoner to the custody of the arresting officer, to be kept in some secure and convenient place other than the jail, to be designated by the magistrate, but this confinement must not exceed four days—the prisoner must have a hearing at all events within four days from the time of his arrest. When a postponement is ordered the accused may enter into a recognizance, with surety (provided the offense with which he is charged is bailable under the constitution and laws of the State), to appear before the court at a place, day and hour named, to answer to the charges ; but this adjournment shall not be for longer than twenty days without the consent of the accused.

This work is not intended as a guide for magistrates, but only to serve as an aid to arresting officers, whether they have been acting in the capacity of detectives, constables or sheriffs, consequently we pursue this subject no further in this direction. It will be observed that our directions for procedure have been confined to those cases in which the criminal was



located in the same county in which the crime was committed, or in another county in the same State. A case involving more difficulty is one in which the criminal has escaped to some foreign country, or to some other State or Territory of the United States. The method of returning him to the jurisdiction of the crime, if it is possible to be done at all, will be discussed in the next chapter.

## CHAPTER III.

### EXTRADITION.—INTERSTATE.

**W**HEN a person commits a crime in one State or Territory and flees into another State or Territory and is captured there he can not be returned to the jurisdiction of the crime, to be tried for it, without the formal process of extradition, unless he consent to go without this formality. The same is true if the criminal flee to some foreign country. The definition of the word extradition will be found in the proper place.

The extradition of fugitives from justice between the States and Territories of the United States is provided for in the Constitution of the United States, Article 4, Section 2:

“A person charged with treason, felony, or other crime, who shall flee from justice, and be found in any other State, shall on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.”

This clause of the constitution, together with the act of Congress on the same subject, forms the legal basis for the extradition of fugitives between the States of the Union. Section 5278 of the Revised Statutes of the United States is as follows:

“Whenever the executive authority of any State or Territory demands any person as a fugitive from justice, of the executive authority of any State or Territory to which such person has fled, and produces a copy of indictment found or an affidavit made before a magistrate, of any State or Territory, charging the person demanded with having committed treason,

felony, or other crime, certified as authentic by the Governor or chief magistrate of the State or Territory from whence the person so charged has fled, it shall be the duty of the executive authority of the State or Territory to which such person has fled to cause him to be arrested and secured, and to cause notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within six months from the time of the arrest, the prisoner may be discharged. All costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the State or Territory making such demand, shall be paid by such State or Territory."

The States have legislated on the subject, within the limits of this statute and the constitution of the United States. The details of procedure vary somewhat in the different States, but the essential features are the same. The Ohio statute covers the ground very thoroughly and embodies the principal rules of all the States on the subject.

"Section 95. The Governor of this State, in any case authorized by the constitution of the United States, may, on demand, deliver over to the executive of any other State or Territory any person charged therein with treason, felony, or other crime committed therein, and he may, on application, appoint an agent to demand of the executive authority of any State or Territory any offender fleeing from the justice of this State: provided, that such demand or application is accompanied by sworn evidence that the party charged is a fugitive from justice and that the demand or application is made in good faith for the punishment of crimes, and not for the purpose of collecting a debt or pecuniary mulct, or of removing the alleged fugitive to a foreign jurisdiction with a view there to serve him with

civil process; and also, by a duly attested copy of an indictment, or a duly attested copy of a complaint made before a court or magistrate authorized to take the same, such complaint to be accompanied by affidavits to the facts constituting the offense charged, by persons having actual knowledge thereof, and such further evidence in support thereof as the Governor may require."

Section 96 provides that the Governor may request the attorney-general, or the prosecuting attorney of any county, to investigate the grounds of the demand or application, and report to him all the material facts with an abstract of the evidence in the case. And if a person is demanded by another State or Territory, he is especially to inquire whether he is in custody or under recognizance to answer for any offense against the laws of this State, or is held by force of any civil process, and give his opinion as to the legality and necessity of complying with the demand. .

Section 97 prescribes the method of procedure when the Governor has decided that it is proper to comply with the demand. The Governor "shall issue a warrant to the sheriff of the county in which such person so charged may be found, commanding him forthwith to arrest and bring such person before a judge of the Supreme Court or a judge of the Court of Common Pleas of this State, to be examined on the charge; and upon return of the warrant by the sheriff, with the person so charged in custody, the judge before whom he is brought shall proceed to hear and examine such charge." If the proof is to him sufficient he shall commit the prisoner to the county jail for a reasonable time to be fixed by the judge in the order of commitment, and cause notice to be given to the executive authority making the demand, or to his duly authorized agent appointed to receive the fugitive, and upon the payment of all costs by the agent the fugitive shall be delivered to him to be



removed to the proper place for prosecution. If the agent does not appear within the time fixed by the judge and pay all costs the sheriff shall discharge the prisoner.

This is the substance of the statute and it is so full and clear that it leaves little to be said upon the subject, as to the general plan. It will be of value and interest, however, to the officer or agent to state somewhat in detail the method of procedure under the statute. It will be observed that both the United States and the State statutes provide for issuing the requisition in two ways: 1. When an indictment has been returned by the grand jury. 2. Upon a complaint made under oath before some magistrate or court authorized to take the same. The process of extradition is exactly the same in either case, the only difference is in the method of starting the machinery. The executive authorities of all the States prefer the indictment and will frequently refuse to extradite a fugitive on complaint if the grand jury has been in session since the commission of the crime and failed to return an indictment, unless a very good reason is given therefor. Our explanation will proceed then on the assumption that an indictment has been returned.

#### EXTRADITION UPON INDICTMENT.

When a crime has been committed and the perpetrator is known, it is the duty of the prosecuting attorney to call the matter to the attention of the grand jury at its first session after the commission of the crime, and, if sufficient evidence can be procured, have the one accused indicted. Then if the criminal has fled from the State and is located in some other State or Territory, the prosecuting attorney of the county in which the crime was committed makes a formal application to the Governor of his State, in writing, asking him to make requisition upon the Governor of the State or Territory in which the fugitive is located. A requisition is a demand. In

some uses the word has a milder meaning approaching that of request, but in this connection it means a formal demand. Moreover, it is a demand *by right*. No discretion is vested in the Governor on whom the demand is made. It is his imperative duty to issue the warrant of extradition, when the case is shown to be within the provisions of the constitution of the United States and the act of Congress on the subject. No one has authority to issue a requisition except the Governor of the State in which the crime was committed, and it must be directed to the Governor of the State or Territory in which the fugitive is located. It can not be directed "to the Governor of any State or Territory." When the prosecuting attorney makes application to the Governor for his requisition he must accompany it by an affidavit which sets forth the purpose for which the extradition of the fugitive is desired and a copy of the indictment, if one has been returned. He usually names to the Governor some person to be appointed as agent of the State, for the purpose of bearing the requisition and bringing back the fugitive. This agent is frequently the sheriff of the county, or his deputy, although it sometimes happens that a constable, or a private detective or other person, has taken especial interest in locating the fugitive and working up the case and such person is usually appointed. A rule that most executives follow is that the agent shall be a resident of the State in which the crime was committed.

If the papers are in proper form, and the case meets the approbation of the Governor, he will issue his requisition upon the Governor of the State in which the fugitive is located. The requisition must be accompanied by the papers in the case, that is, a copy of the indictment properly certified, and the affidavit, and be under the seal of the State. The agent of the State receives a special commission from the Governor. This agent takes the requisition and other papers and presents

them first to the Governor of the State in which the fugitive is located. This Governor has a right, and it is his duty, to examine into the merits of the case, to ascertain whether it is in accordance with the constitution and laws of the United States; to learn also, if possible, whether the criminal action is brought simply to force the collection of a debt, which is too common a procedure in late years; or to mulct the accused out of money; or to secure his presence in a foreign jurisdiction so that civil process may be served on him in some other matter; and if he finds that any of these circumstances is true it is his duty to refuse the application and decline to issue his warrant. He should also inquire particularly whether the person wanted is in custody or under indictment, or recognizance to answer for any crime in his own State, and if so refuse the application, because, if the person wanted is guilty of an infraction of the laws of both States, the one having actual possession of him has a right to hold him for punishment against all others. After the violation of the laws of his own State has been satisfied, the Governor may hand him over to the other State to be punished there for the crime committed in it. In order to investigate all these points thoroughly and satisfy himself that he is not being imposed upon, or using the processes and the great seal of his State to collect a debt or promote a mulct, he may call to his aid the attorney-general of the State or the prosecuting attorney of the county in which the fugitive is located, or both. When the investigation shows that every thing is right and in accordance with the law and in proper form, and that the application is made in good faith for the punishment of crime, then the Governor, as stated before, has no discretion in the matter, but must issue his warrant. This warrant is usually directed to the sheriff of the county in which the fugitive is located. If his exact location in the State is not known, or the fugitive is moving about from one county

to another, it may be directed to any sheriff or constable of the State. It is a warrant for the arrest of the fugitive, for a crime committed in another State, and the date and nature of the crime must be set forth. It instructs the arresting officer to make known the nature of the criminal charge against him and give him an opportunity, if he desires it, to apply for a writ of *habeas corpus*; to transport him to the line of the State and deliver him to the agent of the State making the requisition, who is named, all to be done at the expense of said agent.

The great writ of *habeas corpus* is brought into use more frequently, perhaps, in the extradition of criminals than in any other connection. It will be treated fully in the proper place. The prisoner may waive all court proceedings, and consent to return at once without any further legal formalities. If he do this his consent to do so should be reduced to writing, and he should sign it. This is necessary as a protection to the agent in case the prisoner afterward claim that he was not allowed his legal rights, and was forced across the State line against his will and without due process of law.

It often occurs that the arrest is actually made before the extradition process is started. In this case he is held a reasonable time, not more than six months by the United States law, and in practice a much shorter time, for the agent of the State wanting him to appear. It frequently is the case, too, that the fugitive, when captured, will consent to return without the process of extradition. This consent should also be put in writing, and be signed by the prisoner, for the same reasons as stated above for signing his consent to return without *habeas corpus* proceedings.

The prisoner remains in the custody of the arresting officer until the court has determined the validity of the requisition, and heard the prisoner upon his writ of *habeas corpus*. When that has been determined, if favorable to the prisoner, he is



discharged; if favorable to the State making the requisition, he is remanded to the custody of the arresting officer to be taken to the line of the State, and there delivered to the agent of the State making the requisition. Until this time the agent has no right to claim the prisoner, and all proceedings by the agent, or other officer, to remove the fugitive, not in accordance with the law as laid down here are unlawful.

The formality of conducting the prisoner to the State line, and there turning him over to the agent, is seldom complied with; the practice being to turn him over as soon as the court proceedings are determined favorable to the State making the requisition.

The agent must give a receipt for the body of the prisoner.

#### EXTRADITION UPON COMPLAINT.

The proper basis for the extradition of a fugitive from justice is an indictment by the grand jury, if that is possible or practicable. It often happens, however, that extradition proceedings must be undertaken before it is possible for a grand jury to return an indictment, and the United States and State laws provide for circumstances of this kind. When a crime is committed, and the criminal flees to another State and is apprehended there, and the grand jury of the county in which the crime was committed is not in session, it is necessary to institute extradition proceedings upon complaint. Some person having actual knowledge of the facts of the crime must go before a magistrate or court authorized to receive such complaint, and make a charge or complaint upon oath, and state the facts of the offense charged with particularity and exactness. This must all be reduced to writing and sworn to. The prosecuting attorney then transmits this charge or complaint to the Governor, with an affidavit as to the purpose of the extradition, and the other affidavit to the facts constituting the

offense by the person having actual knowledge of the crime. The County Clerk in case of complaint, must also certify under seal, that the magistrate before whom the complaint is made, is a Justice of the Peace in and for that county and State, and this certification must be sent to the Governor along with the other papers in the case.

From this first step to the return of the fugitive as a prisoner, the process is exactly the same as previously described under extradition upon indictment.

The steps in extradition then, to sum up briefly, are: 1. The indictment (or complaint as the case may be). 2. The prosecuting attorney's request in writing to the Governor that he issue his requisition for the fugitive. 3. The Governor's requisition, which is a demand upon the Governor of the State to which the fugitive has fled that he be turned over to the State. 4. The warrant issued by the Governor to whom the requisition is sent. It is directed to a sheriff or constable and orders the arrest of the fugitive. 5. The arrest.—If the arrest has been made previously this instrument legalizes it. It is like arresting a man without a warrant and holding him until a warrant can be obtained. 6. The court proceedings, *habeas corpus*, etc., unless these are waived. 7. Turning the prisoner over to the agent, and taking his receipt for his body.

All that is left is for the agent to return with his prisoner to the county in which the crime was committed, and lodge him in jail to be tried as any other prisoner.

The forms for the extradition of fugitives now used in Ohio have been revised and perfected within the last two years, and are as nearly perfect as they can be made. They are considered by the officers iron-clad, and are adapted to any State in the Union. With a set of papers after these forms it is impossible for a fugitive to get away on any technicality. The forms are here given in full:

## PROSECUTING ATTORNEY'S APPLICATION.

HAMILTON COUNTY, OHIO.

OFFICE OF THE PROSECUTING ATTORNEY,

*Cincinnati, August 15, 1889.*

TO HIS EXCELLENCY, THE GOVERNOR :

SIR : I have the honor to request that you issue a requisition upon the Governor of the State of Minnesota, for the extradition of M. C. K., who stands charged by indictment (*or complaint as the case may be*) with the crime of embezzlement, committed in this county on the 24th day of June, 1889, and who, to avoid prosecution, fled from the jurisdiction of this State, and, as I am informed, is now within the jurisdiction of said State of Minnesota.

I HEREBY CERTIFY, That in my opinion the ends of public justice require that the alleged criminal be brought to this State for trial at the public expense ; that I have, as I verily believe, sufficient evidence to secure his conviction ; that there has not been, so far as I am aware, any former application for a requisition for the same person, for the same offense, which is the basis of this application.

Said alleged fugitive is not now, as I verily believe, under either civil or criminal arrest in said State of Minnesota.

I FURTHER CERTIFY, That this application is not made for the purpose of enforcing the collection of a debt, or for any private purpose whatever, and that if the requisition applied for be granted, the criminal proceedings shall not be used for any of said objects.

AND I FURTHER CERTIFY, That the offense with which said alleged fugitive is charged is a felony, and is defined by Section 6841, Revised Statutes of Ohio.

The delay in presenting this application was unavoidable, for the reason that (*here assign reason for delay, if any*).

I designate John Doe as a proper person to be appointed agent of the State, and certify that he has no personal interest in the arrest and return of said fugitive other than proper compensation for his services.

Very respectfully,

JOHN C. SCHWARTZ, *Prosecuting Attorney*,  
Hamilton County, Ohio.

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PROSECUTOR'S AFFIDAVIT.

STATE OF OHIO, }  
Hamilton County, } ss.

I, John C. Schwartz, having been duly sworn, depose and say that I am the Prosecuting Attorney of said county, that the person charged by indictment with the crime of embezzlement is a fugitive from justice; and that the statements made in the foregoing application for a requisition for his extradition are true, as I verily believe.

JOHN C. SCHWARTZ.

Sworn to before me, and subscribed in my presence, this  
15th day of August, 1889.

JOHN B. PEASLEE,  
*Clerk of Court of Common Pleas*,  
Hamilton County, Ohio.

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AFFIDAVIT BY COMPLAINING WITNESS.

STATE OF OHIO, }  
Hamilton County, } ss.

Richard Roe being duly sworn, deposes that he is the complaining witness in the case of the State of Ohio against M. C. K. the person named in the foregoing application; that said



M. C. K. is a fugitive from justice, and is now, as he believes, in the State of Minnesota; that he desires his return for the sole purpose of punishing the accused, and that he does not desire or expect to use the prosecution for the purpose of collecting a debt, or for any other private purpose, and will not directly or indirectly use the same for any of said purposes.

RICHARD ROE.

Sworn to before me, and subscribed in my presence, this 15th day of August, 1889.

\*JOHN B. PEASLEE,

*Clerk of Court of Common Pleas,  
Hamilton County, Ohio.*

THE STATE OF OHIO, U. S. A. }  
OFFICE OF THE GOVERNOR. }

I, J. B. Foraker, Governor of said State, do hereby certify that John B. Peaslee, whose genuine signature and official seal are affixed to the attestation hereto attached, was, at the date thereof, Clerk of the Court of Common Pleas of Hamilton County, in said State, duly commissioned and qualified; that he is the proper officer to make said attestation, which is in due form; and that his official acts are entitled to full faith and credit.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the Great Seal of the State of Ohio to be affixed, at the city of Columbus, this 16th day of August, in the year of our Lord one thousand eight hundred and eighty-nine and in the one hundred and fourteenth year of the Independence of the United States of America.



*By the Governor:*

J. B. FORAKER.

DAN'L J. RYAN, *Secretary of State.*

The Governor issues a commission to the agent of the State for which the following form has been adopted in Ohio:

In the name and by the authority of

THE STATE OF OHIO, }  
J. B. FORAKER, }  
GOVERNOR OF SAID STATE. }

To all to whom these presents shall come, greeting:

WHEREAS, M. C. K. has been charged by indictment with committing the crime of embezzlement within the county of Hamilton, in this State, and has, by a requisition of this date, been demanded of the Governor of the State of Minnesota as a fugitive from justice;

THEREFORE, I do hereby appoint John Doe to be the agent of this State, to receive the said M. C. K. from the executive authority of the State of Minnesota, and to convey him to the said county of Hamilton, to be tried for the offense aforesaid, according to law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the Great Seal of the State of Ohio to be affixed, at Columbus, the 16th day of August, in the year of our Lord 1889, and in the 114th year of the Independence of the United States of America.

*By the Governor:*

J. B. FORAKER.

DAN'L J. RYAN, *Secretary of State.*

#### THE GOVERNOR'S REQUISITION.

THE STATE OF OHIO, }  
EXECUTIVE DEPARTMENT. }

TO HIS EXCELLENCY, THE GOVERNOR OF MINNESOTA:

WHEREAS, It appears by the annexed papers, which are duly authenticated in accordance with the laws of this State, that

M. C. K. stands charged by indictment with the crime of embezzlement, committed in the county of Hamilton, in this State, and it has been represented to me that he has fled from the justice of this State, and taken refuge within the State of Minnesota.

NOW, THEREFORE, Pursuant to the provisions of the Constitution and Laws of the United States, in such case made and provided, I do hereby make Requisition for the apprehension of said Fugitive, and for his delivery to John Doe, the Agent of this State, duly appointed and commissioned to receive him and convey him to the County aforesaid, there to be dealt with in accordance with Law.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the Great Seal of the State of Ohio to be affixed, at Columbus, the 16th day of August, in the year of our Lord one thousand eight hundred and eighty-nine, and in the one hundred and fourteenth year of the Independence of the United States of America.



*By the Governor:*

J. B. FORAKER.

DAN'L J. RYAN, *Secretary of State.*

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#### THE GOVERNOR'S WARRANT.

In the name and by the authority of the State of Minnesota,  
W. R. Merriam, Governor of said State.

To all to whom these Presents shall come, Greeting:

TO THE SHERIFF OF RAMSEY COUNTY:

WHEREAS, Requisition has been made upon me by the Governor of the State of Ohio, for the extradition of M. C. K., an alleged fugitive from the justice of said State of Ohio, charged with the crime of embezzlement, as appears by a copy

of indictment, duly authenticated, and attached to the requisition aforesaid;

THEREFORE, I do hereby command you forthwith to arrest the said M. C. K. and bring him before any Judge of the Supreme Court, Circuit Court, or Court of Common Pleas of this State in whose district or jurisdiction he may be found, to be examined upon said charge, and otherwise dealt with as provided by law; and, on this warrant, if so directed by such Judge, to deliver him to John Doe, the Agent appointed by the Governor of the State of Ohio to receive him; and of this WARRANT, with your proceedings thereunto, make due return according to law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the Great Seal of the State of Minnesota to be affixed, at St. Paul, the 20th day of August, in the year of our Lord one thousand eight hundred and eighty-nine, and in the one hundred and fourteenth year of the Independence of the United States of America.

*By the Governor:*

W. R. MERRIAM.

H. MATTSO, *Secretary of State.*

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The above form for the Governor's warrant is the Ohio form adapted to the State of Minnesota. The Minnesota form is different in some unimportant respects. It commands the arresting officer to conduct the fugitive to the border of the State and there deliver him to the agent, but as before stated this formality is always waived and few of the forms now contain it.



## CASES AND DECISIONS.

Some very important questions have arisen under the extradition laws of the United States and the statutes of the different States. Every State in the Union has enacted laws on the subject, all in accordance with and supplementary to the Constitution and statutory enactment of the United States Government. According to the constitutional provision two things must be clearly made out before the Governor upon whom the requisition is made is obligated to issue his warrant for their removal from the State: 1. The person must be charged with treason, felony or other crime. 2. He must be a fugitive from justice.

In regard to the first of these statutory conditions it is the practice of executives, and it seems to be supported by judicial decision, to look beyond the papers presented to ascertain if possible whether there is some other motive lurking behind that which appears upon the face of the papers.

In the case of the State *vs.* Moses Kahn, the following facts existed: Kahn committed an offense in Pennsylvania. In fact, he committed several offenses of the same nature against several different people and firms. He fled to Ohio. A requisition was issued by the Governor of Pennsylvania upon the Governor of Ohio upon indictment for one of these offenses. Governor Foster, of Ohio, issued the warrant and he was taken back. Before he reached Philadelphia, however, where the offense was committed, a compromise was effected, he paid the money of which the party claimed to be defrauded and was released.

Immediately some of the others, who had been similarly defrauded, had him indicted and the Governor of Pennsylvania issued his requisition upon the Governor of Ohio again, Kahn having returned to this State. Governor Foster this time refused to issue the warrant for his arrest and removal, upon the

ground that his confidence had been abused before, the processes and the great seal of the State being used to force the collection of a debt due in Pennsylvania, and he would not permit this thing to be done again.

The Governor's decision in cases of this kind is final. There is no reviewing court, no power that can compel him to alter his decision or issue his warrant. The point seems to be that while the papers themselves are regular, and charge a crime, and state that the fugitive is wanted solely for the purpose of punishment, still when people have been defrauded out of money and the offender offers to make them whole with the quiet understanding that the criminal prosecution will be dropped, the temptation is too great for the average mortal to withstand—ninety-nine times out of a hundred the money will be accepted. So that a very slight degree of evidence that the parties desire to secure the return of the fugitive for the purpose of collecting a claim will be sufficient to decide the executive not to issue his warrant.

A case which illustrates the right of the Governor upon whom the requisition is made to consider circumstances outside of and beyond the papers as presented to him is that of Gaffigan and Merrick, whom the authorities of Pennsylvania attempted to extradite from the State of Illinois upon an indictment charging these men with murder. The facts briefly were these: The indictment charged these men with the murder of one Michael Durkin in the County of Schuylkill, Pennsylvania. On the 1st day of March, 1865, not long after the murder, no arrest having been made or indictment returned, Gaffigan and Merrick left Pennsylvania and went to Illinois. An indictment was returned against them, however, in the month of March, of the same year, at the court of Oyer and Terminer, of Schuylkill County. There was no evidence that they attempted to conceal their destination. In 1867 they settled perma-

nently in the city of Springfield, Illinois, where they went into business and became well known and respected citizens. One of them did business for years on one of the principal streets of Springfield and held the office of County Inspector of Mines, by appointment of the Board of Supervisors of Sangamon County. The other acted as School Director of the town of Woodside in the same County. Both went under their true names and showed themselves as publicly as any other citizens. Both had families. Merrick was married when he came to the State and Gaffigan married respectably in the State. Thus both men were in constant and frequent communication with old friends in Schuylkill County, Pa. At one time Mrs. Merrick with four of her children visited their old home in Pennsylvania and spent some weeks there visiting old friends, the residence of herself and husband at Springfield being known and spoken of frequently among her acquaintances, as is usual when persons visit a former place of abode. Gaffigan's father left St. Clair, Pennsylvania, the place where the murder was alleged to have been committed in 1870, for the avowed purpose of living with his son in Springfield, Ill. The old man died in Springfield and the fact of his death was at once telegraphed to one, Conroy, a constable of St. Clair, Pa., and a witness whose name was indorsed on the indictment. The remains of the elder Gaffigan were taken back to St. Clair and interred in the presence of a large number of people. Many people from Pennsylvania visited both Merrick's and Gaffigan's in Springfield. Others came and renewed their acquaintances and located. Some became permanent, others returned. These people repeatedly wrote to their friends in St. Clair of the prosperity of Merrick and Gaffigan in Springfield. The brother of one of these men who was also included in the same indictment for the same crime surrendered himself, was tried and acquitted. The men came to Springfield poor, but by industry

and frugality acquired decent homes and always bore irreproachable characters. They never concealed who they were nor their former place of residence.

The requisition for these persons was presented to Governor S. M. Cullom, at Springfield, on the 4th day of December, 1878, over thirteen years after the crime was alleged to have been committed in Pennsylvania. It was stated on behalf of those who desired their extradition that the prosecutor of the county of Schuylkill, who was in office at the time said indictment was found, and most, if not all, of his successors up to a very recent date, were ignorant of the whereabouts of the persons.

In regard to this point Governor Cullom thought that if the prosecutors did not know their whereabouts, it was because they did not take the slightest trouble to inquire.

The discussion before the Governor came up in this way:

Upon the presentation of the requisition, everything seeming regular and in accordance with the law, and the Governor having no personal acquaintance with the parties or the facts, he issued his warrant for the arrest and return of these men as fugitives from justice. They were arrested, but before they were surrendered to the agent of the State of Pennsylvania application was made to the Governor to revoke his warrant, and all the facts as above stated were brought out.

The Governor delivered a very exhaustive and elaborate opinion, which we regret we have not space to give here in full. We quote some parts tending to show his right or duty to consider elements outside the papers themselves:

"It is urged by those who support the requisition of the Governor of Pennsylvania that I have no discretion in the matter, but must surrender the men if the papers presented are regular on their face. And this is to my mind the most important question. Have I the right to consider any extraneous facts—the lapse of time, passiveness of the public prosecutor of



Pennsylvania, the hardships of respectable families in this State, or any other matter beyond the very letter of the record?

"The Supreme Court of the United States, in the celebrated case of *Kentucky vs. Dennison*, made use of language which would seem to justify the conclusion that the Governor of a State to whom a requisition is presented, demanding the return of an alleged fugitive from justice, has only a ministerial duty to perform, and has no authority to look beyond the record. *Howard 66.*

"The words used by the court are very strong, and if they are to be taken without qualification, would seem to be conclusive. Yet it is entirely certain that notwithstanding that decision, it has been the practice of the Governors of many States to look beyond the papers presented. It is clear that where a prisoner is held to answer a criminal charge, in the State where found, he will not be surrendered upon the demand of the executive authority of another State. This has always been the practice in Illinois, as well as in all other States so far as I know. But since the case of *Kentucky vs. Dennison*, the Supreme Court of the United States itself has conclusively shown that the words used by the court, in the case last cited, were not to be taken without qualification. In *Taylor vs. Taintor* (16 Wallace, p. 366) a peculiar state of facts was shown. One McGuire was indicted in Connecticut and gave bail. He then went to the State of New York, but was taken from there on a requisition from the Governor of Maine, and was imprisoned in the State. He did not appear to answer the indictment in Connecticut, and forfeited his recognizance. Judgment being given against his bondsmen, they carried the case to the Supreme Court of the United States, where the judgment was affirmed. In discussing the questions presented the court say:

"Had the facts been made known to the executive of New

York in time it is to be presumed he would have ordered McGuire to be delivered to them (the bondsmen), and not the authorities of Maine.'

"Again on page 374 the court say: 'It is true the constitutional provision and the law of congress under which the arrest and delivery were made are obligatory on every State, and a part of the law of every State. But the duty enjoined is several and not joint, and every Governor acts independently and for himself. "There can be no joint demand or refusal. In the event of refusal, the State making the demand must submit. There is no alternative. In the case of McGuire no impediment appeared to the Governor of New York, and he properly yielded obedience. The Governor of Connecticut, if applied to, might have rightfully postponed compliance. If advised in season he might have intervened and by a requisition have asserted the claim of Connecticut. It would then have been for the Governor of New York to decide between the conflicting demands. Whatever the decision, if the proceedings were regular, it would have been conclusive. There could have been no review and no inquiry going behind it.'

"It thus appears that the language used in *Kentucky vs. Dennison* is not unqualified, that an executive officer to whom a requisition is presented may do something more than inquire into the regularity of the record, and that however regular the record there still may be *impediments* of which the executive of whom the demand is made must be the judge. I refer to this case, and to the practice in this State and other States, for the purpose of showing that whether my duties be regarded as purely ministerial or *quasi judicial*, I am not only empowered, but required to consider certain extraneous facts not appearing in the record presented to me."

This decision of Governor Cullom, that the Governor on whom the requisition is made is both empowered and required

to consider facts outside the record is now the recognized rule of practice. The Governor's reference to the United States Supreme Court decision in *Taylor vs. Taintor*, quoted above, affords the highest authority for our statement that the Governor's decision is final; there is no appeal.

In regard to the second condition requisite to the extradition of a fugitive, viz., that the person must be a fugitive from justice, the same case of Merrick and Gaffigan affords a good example. And it was really upon this latter point that the Governor rendered his decision. The Governor said that he considered it his bounden duty to inquire whether Gaffigan and Merrick were fugitives from justice, and surrender or refuse them as he found the facts to be.

Mr. Hurd, in his work on *Habeas Corpus*, says that in order to constitute a person a fugitive from justice "there must be an actual fleeing from justice, and of this the Governor of the State of whom the demand is made, as well as the one making it, should be satisfied."

Governor Cullom, after admitting that the fact that Merrick and Gaffigan left the State of Pennsylvania shortly after the homicide was some evidence that they were fugitives from justice, proceeds as follows with his able argument:

"For nearly fourteen years they have been in frequent and open communication with their friends in the place where the crime is alleged to have been committed. During that long period their residence has been so generally known and so entirely unconcealed, that the officers of justice could be ignorant of it only because they made no effort to find it out. I am aware that against the crime of murder there is no limitation, but that is not the question. Does the character of a fugitive from justice once attaching to a man never leave him under any circumstances? Can he not purge that taint by showing himself for many years to all the world without disguise and

allowing the ministers of justice all proper means of knowing his whereabouts, and prosecuting him if they so desire? Suppose these men had voluntarily visited the place where the crime is alleged to have been committed, and after remaining there for a time had returned to Illinois, would they still be fugitives from justice? I think not. That character would have been thrown off. And if so, may not the same result arise from many years of publicity, free communication with friends, and the entire absence of concealment? Such a course is, in my opinion, equivalent to a voluntary return. \* \* \*

"In my opinion, Gaffigan and Merrick are no longer fugitives from justice, if they ever were so. Had they concealed themselves, or had there been any difficulty in ascertaining where they were, upon due inquiry by the officers of justice, my conclusion would have been wholly different. But I believe a man may, by long years of good conduct, and by showing himself to the world without concealment, outlive the character of a fugitive from justice, more particularly where the ministers of justice charged with his apprehension practically abandon the charge against him for nearly half the period of human life. \* \* \*

"Believing, then, that neither positive law nor any considerations founded upon justice require the surrender of the men, I must respectfully refuse to comply with the requisition of the Governor of Pennsylvania. The warrant heretofore issued is revoked and Gaffigan and Merrick ordered to be discharged.  
S. M. Cullom, Governor."

#### EXTRADITABLE CRIMES.

The words used in the Constitution of the United States are "treason, felony, or other crime." Two offenses are particularly named by their common law titles, treason and felony. If the word crime is used in the Constitution in the same



meaning that attaches to it in criminal courts and in all criminal practice, ancient and modern, State and national, there is certainly no difficulty in determining what the word includes. Every infraction of the law that is punishable or indictable is a crime. It reaches as far in heinousness and gravity as felony and down to the smallest misdemeanor. It has been contended, however, that the word crime in the Constitution has a more restricted meaning. In 1790 the Attorney-General of Virginia advised the Governor of the State, Randolph, not to extradite three fugitives from the justice of Pennsylvania, who were demanded by Governor Mifflin of that State, giving as a reason that the phrase "or other crime" found in the Constitution has "reference only to crimes similar in character to treason and felony, and that the act charged must be a crime in that sense, under the laws of the State upon which this demand is made," and that the offense charged in this case was not a crime of this kind by the laws of Virginia, "but only a trespass or breach of the peace."

In 1839 Governor Seward, of New York, refused to deliver up to the State of Virginia three persons who were demanded of him by the Governor of Virginia, charged by affidavit with having feloniously stolen and taken away a negro slave, the property of one, Colley. The grounds for his refusal were that in his opinion the constitutional "provision applies only to those acts which, if committed in the jurisdiction of the State in which the person accused is found, would be treasonable, felonious, or criminal by the laws of that State." The act charged was a crime in Virginia, but not in New York.

Subsequently Governor Dennison, of Ohio, upon substantially the same grounds, refused to extradite one, Willis Lago, a fugitive from the justice of Kentucky, charged with having assisted a slave to escape from her owner, which was a crime in Kentucky, but not in Ohio.

*Opinion of the U. S. Supreme Court.*—This case was carried to the Supreme Court of the United States, the State of Kentucky asking the court to issue a writ of mandamus addressed to the Governor of Ohio, commanding him to comply with the requisition of the Governor of Kentucky for the delivery of this fugitive from justice. The court declined to grant the writ, holding that “if the Governor of Ohio refuses to discharge this duty, there is no power delegated to the general government, either through the judicial department or any other department, to use any coercive means to compel him.”

It will be observed that the Supreme Court did not refuse the writ because they thought Governor Dennison was right, but because they had no power to compel him to act in the matter. This is a stronger deliverance from the Supreme Court than the one previously quoted from *Taylor vs. Taintor* as to the finality of the Governor's action in cases of requisitions upon him. He can not be compelled even to do his duty. A gross violation of duty in this respect could only be reached by impeachment, and that would not undo his act. In stating the opinion of the court in the above mandamus suit, *Kentucky vs. Dennison*, Chief Justice Taney gave a clear and elaborate exposition of the constitution relating to Interstate extradition, and the language is so strong as to show the opinion of the court clearly to be that Governor Dennison was wrong, that Governor Seward of New York was wrong, and that the Attorney-General of Virginia was wrong in his advice to Governor Randolph, as early as 1790. We quote from Chief Justice Taney's opinion:

“Looking at the language of the clause, it is difficult to comprehend how any doubt could have arisen as to its meaning and construction. The words ‘treason, felony, or other crime,’ in their plain and obvious import, as well as in their legal and technical sense, embrace every act forbidden and made

punishable by the law of the State. The word 'crime' of itself includes every offense, from the highest to the lowest in the grade of offenses, and includes what are called 'misdemeanors,' as well as treason and felony."

In another connection in the same opinion the Chief Justice remarks:

"Looking, therefore, to the words of the Constitution—to the obvious policy and necessity of this provision to preserve harmony between States, and order and law within their respective borders, and to its early adoption by the colonies, and then by the Confederate States, whose mutual interest it was to give each other aid and support whenever it was needed—the conclusion is irresistible that this compact engrafted in the Constitution included, and was intended to include, every offense made punishable by the law of the State in which it was committed, and that it gives the right to the executive authority of the State to demand the fugitive from the executive authority of the State in which he is found; that the right given to demand implies that it is an absolute right; and it follows that there must be a correlative obligation to deliver, without any reference to the character of the crime charged, or to the policy or laws of the State to which the fugitive has fled."

*The State Courts.*—This construction of the meaning of the Constitution has been adopted by decisions in nearly all the States in proceedings on *habeas corpus*.

The opinion of the Supreme Court of New York, delivered by Chief Justice Savage, in *The Matter of Clark*, will be found in 9 Wend. 212. The court say: "The language is 'treason, felony, or other crime.' The word 'crime' is synonymous with the word 'misdemeanor,' 4 *Blackstone's Com.*, 5, and includes every offense below felony punishable by indictment as an offense against the public."

The Court of Appeals, of New York, in *The People, ex. rel. Lawrence vs. Brady*, 56 N. Y. 182, said: "The word 'crime' in the clause of the Constitution, which has been quoted, embraces every act forbidden and made punishable by the law of a State, and the right to demand the surrender of fugitives from justice extends to all cases of the violation of its criminal law. \* \* \* The obligation to surrender for an act which is made criminal by the law of the demanding State, but which is not criminal in the State upon which the demand is made, is the same as if the alleged act was a crime by the law of both."

The Supreme Court of Massachusetts, in *Brown's Case*, 112 Mass., 409, said: "The words of the provision of the Constitution and laws of the United States, and of the statutes of this Commonwealth, the history of those provisions, and the judicial expositions of them, conclusively establish that the authority of the Governor of this Commonwealth to order the delivery of fugitives from the justice of another State in the Union extends to a person appearing to be charged with *any* crime whatever in the State."

The Supreme Court of Indiana, in *Morton vs. Shinner*, 48 Ind., 123, holds that a misdemeanor is an extraditable offense.

The Supreme Court of North Carolina, in *The Matter of Hughes*, Phill. L., 57, held that "the constitutional requirement for the surrender of fugitives from justice applies to those charged with statutory as well as common law crimes."

The Supreme Court of Georgia declared in *Johnston vs. Riley*, 13 Ga., 97, that "when the Governor of a State makes a requisition, under the Constitution of the United States, on the Governor of another State, for the return of a fugitive from justice, who had escaped from the former to the latter State, if the requisition is made with all requisite formalities, it is his imperative duty to comply, without inquiring whether



the fugitive has committed a crime according to the laws of the State to which he fled."

In 24, American Jurist, 226, we find the opinion of the Supreme Court of Maine, delivered as early as 1837, at the request of the Governor of the State. It is as follows: "In our opinion it is the duty of the executive of this State to cause to be delivered over to the agent of another State, at the request of the executive thereof, a citizen of this State, charged by indictment with the fraud before set forth, *which, being indicted in such State, may be presumed to be there regarded as a crime*, if the executive of this State is satisfied that such citizen has fled from justice from the State making the demand, and not otherwise."

The Supreme Court of Vermont, in the case of *In re Greenough*, 31 Vt., 279, in which Greenough had obtained money under false pretense in Illinois, and his extradition from Vermont was resisted upon the ground that the words of the Constitution "or other crime" should be confined to crimes of great atrocity, used the following language: "This provision in the Constitution and laws of Congress has received a practical, uniform construction from Maine to Georgia, from an early day in our judicial history, if, indeed, it can be said to admit of construction. It has also been the subject matter of repeated judicial determination, and he must, I think, be a bold man, who at the present day is ready to hold that the subject matter of the complaint against Greenough is not within the Constitution and laws of Congress. The language is broad, and the crime charged is within its letter, and, I apprehend, equally within the reason and spirit of the provision."

In the old Articles of Confederation the words used were "treason, felony, or high misdemeanor." "High misdemeanor" is a term of vague import and there is no doubt that the words "or other crime" were substituted in framing the

Constitution both for the purpose of making the language entirely definite, and also to make extraditable every species of misdemeanor punishable by indictment, whether it be common law or statutory crime.

The above opinions of the Supreme Court of the United States, and of the various State courts, which might be supplemented by many others of the same tenor, settle beyond dispute two legal propositions: 1. The words of the Constitution and act of Congress, "treason, felony, or other crime," include *all* crimes, whether common law crimes or made so by statutory enactment, whether felony or a petty misdemeanor. 2. That it is immaterial whether the offense charged be a crime in the State to which the person has fled, and from which he is demanded, or not, so long as it is an indictable offense in the State in which it was committed.

*Petty Misdemeanors.*—It is not probable that the labor of inter-State extradition will ever become burdensome on account of the fact that minor offenses are extraditable, because, in the first place, a person who has committed a petty offense will very seldom flee from his home to avoid the consequences; and, secondly, if he should flee, the State would rarely, if ever, pursue him into another State for so small an infraction of its statutory law. Still, it must be admitted, that if a person should flee from a petty misdemeanor into another State, and the authorities should pursue him in regular form, and according to law, the obligation of the State to which he fled to surrender him would be just as great as though his crime were a felony.

*The Flight from Justice.*—Before dismissing the subject of inter-State extradition we desire to add a few observations on two or three collateral points. We have already stated that one of the constitutional pre-requisites to the extradition of a person from one State to another, is that he be a fugitive from

justice. It often becomes the most important question to be decided in a case, whether the person charged with a crime is a fugitive from justice. Governor Cullom's decision, previously quoted, turned on this point. The language of the Constitution covering this point is, "*who shall flee from justice, and be found in another State.*" The act of Congress says that "whenever the executive authority of any State or Territory demands any person *as a fugitive from justice*, of the executive authority of any State or Territory *to which such person has fled*," etc. There must be a fleeing from one State and a finding in the other, the presence there being the result of the fleeing. The conjunction connecting the two parts is copulative. Both are necessary. If the language were "*who shall flee from justice or be found in another State*," the conditions would be different, either fact would suffice for his extradition.

*Fleeing* implies bodily locomotion. It is a movement in the exercise of the person's own will, of his own choice. His removal from one State to another by force or by legal process would not constitute a fleeing from justice on his part. The fleeing must be his own voluntary act.

His voluntary motion from one State to another, however, is still not enough to make him a fugitive. His motive must be to escape justice, or to avoid the punishment of crime by placing his person where the same liability does not exist. Not every person who goes from one State to another, of his own free will, and is found there, is a fugitive. He must go there to avoid punishment for crime.

In view of this fact, it is proper that some evidence be taken by both the executives as to the fact of the fleeing, first by the Governor making the requisition, and by him presented to the Governor to whom he addresses the requisition. This evidence must be legal, not hearsay. It must be under oath and must be sufficient to make out a *prima facie* case of flight.

This is partly the object of the affidavits presented to the Governor. It is not sufficient for the Governor to know that the person is charged with crime; he must also know that he is a fugitive as well as a criminal, before he is authorized to issue his requisition. The decisions on this point are conclusive and from the best authorities.

The fact that a party charged with crime in one State is found in another raises the presumption that he is a fugitive, but it is not conclusive. If this presumption were conclusive "a person might be arrested in any State, and surrendered to another for trial on the mere showing that in the latter State an indictment had been found, or a complaint made in due form against him. By this means one might be punished for constructive presence and participation in an offense committed, if at all, at a great distance, as was actually attempted in the noted case of the Mormon prophet Smith, who was arrested as a fugitive from a State where he had never been, and was ordered to be surrendered for trial for offenses against laws to which he had never been subject. Such a construction would be intolerable."—*Judge Cooley in Princeton Review, Jan., 1879, p. 164.*

*Difficult Questions.*—A man in Indiana near the Eastern line of the State shot and killed a man standing beyond the line and in the State of Ohio. The murderer did not flee, but simply remained in the State of Indiana. Can he be extradited into Ohio as a "fugitive from justice?"

A person in Kentucky sent an infernal machine by express to a person in Georgia which exploded and killed the receiver when he attempted to open it. Is the Governor of Kentucky under obligation to issue his warrant for the arrest and removal of this person to Georgia as a fugitive from justice?

A man in Maine sends a deadly poison to an innocent person in New York, by mail, with written instructions to give



it to a sick friend as it will effect his cure. The poison is given and death ensues. Can the murderer in Maine be extradited?

A merchant in Topeka, Kansas, obtains a bill of goods from a house in Chicago, Illinois, by false and fraudulent representations. Can he be taken to Chicago for trial?

It has been claimed by some that the criminal, in cases similar to those given above, while not *actually* and *personally* in the State where the effect of his act took place, was nevertheless constructively present and hence was *constructively* a fugitive from justice. The question has been much discussed in the courts and the decisions have not been uniform. The question is, where is the crime committed? In and against the jurisdiction where the offender actually was at the time of the criminal action, or in and against the jurisdiction where the action was completed, the two jurisdictions being different?

We will not go into the discussion of this question. There is only one clear way over all difficulties, and that is to consider that the crime is committed at the place where the offender actually was at the time of his action; then if he does not flee he can be punished there, and if he does he becomes a fugitive and can be extradited without raising any of the difficult questions stated above. As a matter of fact, however, the Constitution contains no provision for the extradition of a criminal who was not present in the State where he is assumed to have committed the crime, and who has not actually fled from the justice of the State. There is no such thing as a constructive fugitive. It is futile to inquire whether the framers of the Constitution thought of such a case. If they did they failed to provide for it. We consider that there can be but one answer to the above questions. The persons could not be extradited into the States where their action took effect, according to the Constitution and law, because they were not fugitives from the justice of those States.

*Another Case.*—Johnson, living in Nebraska, committed a larceny and fled from the State into Missouri. While in Missouri he secretly committed murder, and was not at the time suspected of the crime. Later the Nebraska authorities located him in Missouri and brought him back upon requisition. He was tried in Nebraska for the larceny and acquitted. He then remained there and took up his residence. Soon after this it was discovered that he committed the murder in Missouri. The Governor of Missouri demanded his delivery on the basis of an indictment for murder. What will be the result?

There is no question of the first element;—he is charged with a crime in Missouri. He is also found in Nebraska, another State. But is he a fugitive from justice? He did not flee from Missouri. He was forcibly taken away by process of law and against his will. Being acquitted of the crime charged in Nebraska he decides to remain there, as he has a right to do. Is he under obligation to go back to Missouri and then run away in order to make himself a fugitive? Surely not. What can be done? Nothing, as long as the Constitution of the United States is in its present form. Removing him by force, under the circumstances, no matter how strong or perfect the extradition papers were made, would be nothing short of official kidnaping.

*The Agent's Powers and Duties.*—The Constitution says nothing about an agent. The act of Congress assumes the power of the executive to appoint an agent and direct the delivery to be made "to such agent when he shall appear."

This legalizes the appointment of an agent. Governors always appoint an agent. He is entrusted with all the papers, including his own commission. The only limitations are two, one relating to the time within which the agent must arrive to receive the fugitive, which is six months, when he may be discharged if the agent do not appear. The other is as to the

expense of the extradition, which must be paid by the agent for the State making the demand.

Section 5279, *Revised Statutes of the United States*, reads:

"Any agent so appointed, who receives the fugitive into his custody, shall be empowered to transport him to the State or Territory from which he fled. And any person who, by force, sets at liberty or rescues the fugitive from such agent while so transporting him, shall be fined not more than five hundred dollars, or imprisoned not more than one year."

The agent under this law has the powers of a Sheriff or Marshal. Though appointed by the Governor of a State he is nevertheless acting under the authority of the United States law.

The agent is not only protected from persons who would rescue his prisoner by force, but no court has authority to interfere and discharge the prisoner after he has received him and given his receipt.

Only one case of this kind has ever come up for judication in this country, so far as we know, and in that the above point was an incident rather than the main feature. It is the case of *In re Burke*. The following were the facts:

One Samuel Frank was charged by Leopold Bros. & Co., of Chicago, Ill., of obtaining goods from them by false pretense and fleeing from the State into the State of Minnesota. A requisition was issued and James H. Burke appointed agent to receive him. The Governor of Minnesota issued his warrant. Frank was arrested and surrendered to Burke. He started with the prisoner, but in passing through the State of Wisconsin, on his direct route to Chicago, Frank in some way, at St. Croix, secured an attorney and applying for a writ of *habeas corpus* was released. Frank returned to Minnesota and Burke also went back and re-arrested him in St. Paul. Frank was released on a writ of *habeas corpus* in the county court,

and immediately had Burke arrested for false arrest and imprisonment. Burke applied to Judge Nelson of the District Court of the United States for the District of Minnesota for a writ of *habeas corpus*. The Judge granted the writ, and, upon the hearing, released him. The only part of his decision pertinent to this question is his remarks upon the action of the court of St. Croix, Wis., in interfering with the agent, Burke, while passing through the State with his prisoner. We select a few sentences from his decision:

"If the prerequisites of the law of 1793 were complied with, and the warrant of the executive of the State to which the fugitive has fled is issued on the requisition of the executive of the demanding State, accompanied by a copy of an affidavit, charging a crime, under the laws of the latter, certified as authentic by the executive, and an arrest is made and delivery to the agent of the demanding State, then the person so arrested is legally restrained of his liberty and may be removed to the State having jurisdiction of the crime. A discharge of the person under the writ of *habeas corpus*, by a judge of any court, whether State or Federal, would be *coram non judice*, and void.

"This presents the question whether the judge of St. Croix County exceeded his jurisdiction under the writ of *habeas corpus*, and his discharge of Frank is a nullity? I think this action of the State court of Wisconsin is the first reported instance of any interference by the judiciary of a State through whose territory the fugitive from justice is being transported, after the concurrent action of the two States alone interested in the transaction.       \*       \*       \*

"The first section of the fourth article of the Constitution provides that full faith and credit shall be given to the public acts, records and judicial proceedings of every other State," etc.       \*       \*       \*



"The papers presented on his return to the writ of *habeas corpus* before the State court of Wisconsin, and now by the petitioner before me, show that all prerequisites are complied with, and if 'full faith is to be given to the public acts, records and judicial proceedings' of any other State in the State of Wisconsin, these papers, duly authenticated under seals of the States of Minnesota and Illinois, and signed by the executive of each State, are so entitled. If so, then under the writ of *habeas corpus*, the court in Wisconsin, on discovering, by the return of the agent, that the person in custody was held by virtue of the Constitution and Laws of the United States in respect of fugitives from justice, and the two States interested in the transaction had concurred in their action, should have proceeded no further. Any action obstructing this Constitutional right was absolutely void."

This decision supports our position. The agent, having received the fugitive, may conduct him in custody from Maine to California without any danger of lawful interference either by private parties or by courts.

*Revoking the Warrant.*—As seen in the case of *Gaffigan and Merrick*, the Governor of a State may, after issuing his warrant, and after the fugitive has been arrested, but before his delivery to the agent, grant him a rehearing of the case, and if he see fit, upon the new evidence introduced, revoke his warrant and order the prisoner discharged. In Ohio, Governor Young revoked a warrant issued by Governor Hayes, and the Supreme Court held as to this act, in *Work vs. Covington*, 34 Ohio St. 64, that "if a warrant for the surrender of a fugitive from justice is obtained in a case in which it should not have been issued, the Governor may revoke it, whether issued by himself or his predecessor." Judge Okey delivered the opinion of the court and added: "It appears from the abstract of the record in the Executive Department, that Governors

Thomas W. Bartley, Salmon P. Chase, John Brough, Jacob D. Cox, Rutherford B. Hayes, William Allen and Thomas L. Young, each in some form or another, revoked a warrant of extradition, and some of them exercised that authority repeatedly; and it is well known that other Governors of this and other States have often exercised the same power."

There is no question of the Governor's authority to revoke his warrant before the fugitive is surrendered to the agent; after that would be too late.

#### HABEAS CORPUS.

There is only one purpose of the writ of *habeas corpus* and that is to secure a judicial inquiry into the legality of the arrest and restraint of a person from his liberty.

The principle underlies our whole judicial system, resting for authority finally upon the Constitution of the United States, that when a person is forcibly deprived of his liberty a competent court of justice may inquire into the cause of his restraint, upon his application for a writ of *habeas corpus*, and may, if such restraint appears to be unlawful, grant the writ and order his release.

In order to secure the issuance of the writ the application for it must show a *prima facie* case of illegal detention, for if the application for the writ admits the lawfulness of the detention there would be no question to be determined by the examination. The granting of the writ of *habeas corpus* does not release the prisoner. The writ is directed to the person detaining another and commands him to produce the body of the prisoner before the court for the purpose of inquiring into the legality of the restraint. The application for the writ is made by the prisoner, and, as said before, in order to secure a hearing at all, or the issuance of the writ, must make out a *prima facie* case of unlawful restraint. The prisoner is then brought

before the court and all the circumstances of his arrest and restraint are gone into in a judicial inquiry. If the restraint is found to be lawful the prisoner will be remanded to the custody of the officer; if unlawful he will be discharged. There is only one question to be determined in this examination and that is the lawfulness of the custody.

There is no provision in the Constitution or Law of Congress for *habeas corpus* proceedings in extradition cases, yet the principle is so firmly grounded in our whole judicial system that it has always been the practice of courts to assume that they have the same right to inquire into the legality of a Governor's warrant as that issued by any other authority. And this has been done from the earliest history of the Government, and many prisoners have been discharged from custody because of some illegality or irregularity in the proceedings. This is the only ground upon which a prisoner is ever discharged, upon an examination under a writ of *habeas corpus*. If the proceedings are regular and fulfill all the legal requirements the prisoner will be remanded to custody under the executive warrant. The right of courts "to interfere by writ of *habeas corpus* and examine the grounds upon which the executive warrant for the apprehension of an alleged fugitive from justice from another State is issued, and, in case the papers are defective and insufficient, to discharge the prisoner," has been determined in the affirmative by the Court of Appeals of New York in *The People vs. Brady*, 56 N. Y., 182, also in *The Matter of Manchester*, 5 Cal. 237. Judge Ray, of South Carolina, however, as early as 1814, in *Ex parte Willard & Wife*, took the opposite view, declaring that a person arrested as a fugitive from justice by the warrant of a Governor, is excepted from the *habeas corpus* remedy, "by the operation of the Constitution and Laws of the United States."

This view has had no considerable following, however, the

universal practice being now, in South Carolina as well as all other States of the Union, to grant the writ if a proper case is made out in the application.

A number of cases and decisions might be cited in accordance with this view, but lack of space compels us to content ourselves with one to which reference was previously made, *Ex parte Joseph Smith*, reported in 3 McLean, 121. Smith applied to the Circuit Court of the United States for a writ of *habeas corpus*, claiming that he was unlawfully restrained of his liberty by an arrest under a warrant of the Governor of Illinois upon a requisition from the Governor of Missouri. Copies of all the papers were presented to the court. The affidavit charging the crime was made by Lilburn W. Boggs, before a magistrate in Missouri. The affidavit read as follows:

"This day personally appeared before me, Samuel Weston, a justice of the peace, within and for the county of Jackson, the subscriber, Lilburn W. Boggs, who, being duly sworn, doth depose and say that, on the night of the 16th day of May, 1842, while sitting in his dwelling, in the town of Independence, in the county of Jackson, he was shot with intent to kill, and that his life was despaired of for several months, and that he believes, and has good reason to believe, from evidence and information now in his possession, that Joseph Smith, commonly called the Mormon Prophet, was accessory before the fact of the intended murder, and that said Joseph Smith is a citizen or resident of the State of Illinois; and that the said deponent hereby applies to the Governor of the State of Missouri, to make a demand on the Governor of the State of Illinois to deliver the said Joseph Smith, commonly called the Mormon Prophet, to some person authorized to receive and convey him to the State and county aforesaid, there to be dealt with according to law."

The Governor of Missouri issued his requisition for Smith,



and described him as a "fugitive from justice." The Governor of Illinois issued his warrant for the arrest and delivery of Smith to the agent of the State of Missouri. The above affidavit was the basis of the action of both Governors. The court upon the hearing on the return to the writ discharged the prisoner on the ground that the affidavit was not sufficient to justify the warrant of arrest.

It was not positive, but merely expressed the belief of Boggs, and that belief related to a conclusion of law. It did not, in fact, charge a crime as having been committed in Missouri. It did not show that Smith was in Missouri at the time of the alleged offense. It did not show or state that he had fled from the State. The court said: "The warrant of the Governor of Illinois recites facts which do not appear in the affidavit. The court can only regard the facts set forth in the affidavit of Boggs as having any legal existence. The misrecitals and over-statements in the requisition and the warrant are not supported by oath, and can not be received as evidence to deprive a citizen of his liberty, and transport him to a foreign State for trial. For these reasons Smith must be discharged."

The fact that both the Governors called Smith "a fugitive from justice" was not regarded by the court as legal proof that he was such. The original affidavit did not so charge and it was the only legal proof before the court.

It will be observed that the court in this instance had all the papers in the case before it. If, as is frequently the case, only the Governor's warrant had been presented to the court, it can not be determined how the decision would have been, but it is quite probable that if it had shown upon its face that Smith was charged with a crime in Missouri, and that he was a fugitive from justice in Illinois, the court would have declined to go behind that *prima facie* evidence. But when all the pa-

pers are before the court they will examine all the evidence to ascertain if proceedings have been in accordance with the Constitution and Laws of the United States, and the affidavit is the best evidence. This shows the importance to a person unlawfully restrained of his liberty, in an extradition proceeding, of having all the papers in the case before the court upon the hearing under the writ of *habeas corpus*.

#### JURISDICTION.

The State and Federal courts have concurrent jurisdiction in *habeas corpus* cases arising under extradition proceedings. All the laws, rules and decisions are based upon the Constitution of the United States and the act of Congress relating to extradition. The law of the Nation is the law of the State. When the State court of Wisconsin illegally released the prisoner Frank, whom the agent Burke was bringing from Minnesota to Illinois, the District Court of the United States, Judge Nelson presiding, declared that if the prerequisites of the law of 1793 are complied with and the fugitive has been delivered to the agent of the demanding State, then a "discharge of the person under a writ of *habeas corpus*, by the judge of any court, whether State or Federal, would be *coram non judice* and void."

A person believing himself to be unlawfully detained may apply for a writ of *habeas corpus* to either a State or Federal court.

*Limitation of Jurisdiction.*—A question that has puzzled jurists not a little, is whether a person may be brought into a jurisdiction ostensibly for the purpose of punishing him for a crime and then be compelled to answer a civil process, or to be tried for an entirely different offense than the one charged.

The principle of law is well settled that a person who has been brought into the jurisdiction of a court on a criminal

charge, which is a mere pretext for the purpose of proceeding against him in a civil action, can not be arrested and held in such action at the suit of any one who was in any way interested in such abuse of a legal process.

It is not well settled, however, whether a person can be extradited for one offense and then punished for another committed prior to his extradition. And as to subjection to civil processes there seems to be still more doubt. The Supreme Court of Illinois, in *Wanzer vs. Bright*, 52 Ill., 35 held: "1. That no court will take jurisdiction of a party when it is obtained by fraud; that a defendant is not amenable to process unless he is in, or voluntarily comes within, the territorial jurisdiction of the court; and that even a valid and lawful act can not be accomplished by such unlawful means as enticing a party by fraud to come within the jurisdiction of the court, so as to subject him to process. 2. That when a party has been fraudulently induced to come within the jurisdiction of a court, so as to render him or his property amenable to its process, he may have his action therefor. 3. That when a party was decoyed from one State into another, for the purpose of his arrest in the latter State, in a civil action, the creditors guilty of such fraudulent conduct and abuse of process, not only could not make them availing for the purpose intended, but were liable to an action at the suit of the party for the illegal arrest and imprisonment."

There is no reason why these principles should not apply in cases of extradition. Judge Cooley says: "To obtain the surrender of a man on one charge, and then put him upon trial on another, is a gross abuse of the constitutional compact. We believe it to be a violation also of legal principles."

It has been held in Kentucky that a fugitive surrendered on one charge is exempt from prosecution on any other.

It is also a general rule of law that where a man is in the

jurisdiction of a court by compulsion for a special purpose, that his presence there shall not be taken advantage of to subject him to legal demands or restraints for any other purpose.

The decisions on these questions have not been uniform and still this is the only proper view to take of the matter and the only view that is consistent with the spirit and letter of the Constitution and Laws of the United States providing for the extradition of criminals.

The strongest opposing opinion we have seen comes from the Supreme Court of Wisconsin in the case of *The State vs. Stewart*, 19 N. W. Rep. 429. The case came up from the Circuit Court of Columbia County, on a writ of *certiorari*. The relator was extradited from Indiana to Wisconsin on a charge of embezzlement, tried and acquitted. He was immediately arrested on another charge, that of obtaining property under false pretense and committed to prison. He applied to Judge Alva Stewart, of the Circuit Court, on a writ of *habeas corpus*, claiming that he was unlawfully restrained of his liberty; that after his acquittal on the other charge he should have been given proper time to return to Indiana, from which State he was extradited. Judge Stewart decided that he was properly held and ordered him into the custody of the sheriff. The case went to the Supreme Court on *certiorari*. The court affirmed the opinion of the lower court. Judge Cassoday delivered the opinion of the court and in his conclusion used the following language:

"It follows that the relator might have been again extradited had he been allowed to go to Indiana after being discharged on the first offense. This being so, there seems to be no practical reason for holding that the relator could not be legally arrested immediately upon the discharge from the first offense, instead of being allowed to escape the State and then brought back on requisition. Such an arrest in such a case



was certainly not in violation of any law of the United States. It was not in conflict with any agreement between the States. It was no breach of any executive pledge. It was no interruption of any comity between the States. We must, therefore, hold that the arrest was not illegal by reason of any of the objections mentioned."

We incline to the view of Judge Cooley that extraditing a man on one charge and trying him on another "is a gross abuse of the constitutional compact." True, the constitution does not establish the doctrine in express words, yet the implication is so strong as to have the force of express language.

The Supreme Court of the United States has never passed upon the question, and until it does the decisions of State courts will probably be as inconsistent in the future as they have been in the past.

## GENERAL REMARKS.

We have given the law as far as it has been settled by legislation or judicial decision on the subject of inter-State extradition. We desire to warn detectives, officers and agents, however, that the law is not always strictly followed, either by the courts or the officers. Many tricks are resorted to in order to secure the release of a prisoner from an agent, or by the agent to get possession of his man, that are not only unlawful but positively disgraceful. If the fugitive is rich and influential his money will secure the best legal talent, obtain favors from officers and courts, prolong contests that to a poor man would seem hopeless and frequently bring about results that, thrown in the scales of justice against the proved facts, would fly skyward like a rocket. On the other hand, promise of a handsome reward frequently induces officers and agents to over step the strict boundaries of the law and resort to tricks and disreputable means not sanctioned by either law or equity to secure the return of a prisoner.

Our counsel is against all unlawful methods. Do not resort to tricks and do not countenance them in others. The basis of this government is obedience to law. Any general departure from this fundamental principle would result in anarchy.

Still, every officer must be on the alert for sharp practice and not get caught napping. Watch every movement of the opposing party and be ready to meet it. A careful study of the foregoing pages will disclose to every intelligent officer the necessary elements to make out an extraditable case. See that your papers are all right, that they allege all the necessary constitutional conditions of extradition, and if they do not, have them right before proceeding. It is not necessary that they be in the exact words of the forms given on the preceding pages but the substance should be the same. In fact the forms gotten up by the different States all vary in language, yet all must show: 1. That a crime is charged by affidavit or complaint. 2. That the charge is properly authenticated. 3. That the person charged is a fugitive from justice.

We advise against attempting to extradite a fugitive on complaint if it can possibly be avoided. Executives look with much disfavor on papers based on complaint and frequently refuse to issue the warrant. And if the Governor refuses to issue the warrant there is no power on earth can compel him to do it. And if the Governor issues his warrant, based upon complaint, the prisoner is likely to get off on a writ of *habeas corpus*. Always have an indictment returned against the fugitive if possible. This is much more satisfactory, because it shows that a jury of fifteen men have examined the evidence against the party and that at least twelve of them think it sufficiently strong to justify them in bringing him to trial, where all the facts on both sides can be heard.

## CHAPTER IV.

### EXTRADITION.—INTERNATIONAL.

OUR discussion of the subject of Extradition has been confined to the surrender of fugitives from one State of the Union to another, or inter-State extradition. This, while the narrower field, is the one in which the large majority of extradition cases arise. It is important, however, for officers to be posted on the principles and rules governing International Extradition, or the surrender of fugitives from one sovereign and independent nation to another upon demand.

As the basis of inter-State extradition is the constitution of the United States, so the basis of international extradition is in the treaties or compacts existing between nations.

Some writers upon the Law of Nations, as Grotius, Vattel, Rutherford, Kent, Burlamaqui and others, have held, in the language of Mr. Wheaton, "that according to the law and usage of nations, every sovereign State is obliged to refuse an asylum to individuals accused of crimes affecting the general peace and security of society, and whose extradition is demanded by the government of that country within whose jurisdiction the crime has been committed." A number of other writers, as Puffendorf, Kluber, Schmaltz, Veot, Saalfeld, Heffter and others, in the language of the same distinguished author, have maintained that "the extradition of fugitives from justice is a matter of imperfect obligation only, and though it may be habitually practiced by certain States as the result of mutual comity and convenience, requires to be confirmed and regulated by special compact, in order to give it the force of an international law."

The conflict of opinion among these eminent writers, all of whom are foreigners except Kent, shows the unsettled condition of the principle of international extraditions in European countries as recently as a quarter of a century ago. In nearly all European countries the subject is now regulated by treaties, and where no treaty exists the same uncertainty prevails, only the practice is more settled now to refuse to extradite a fugitive unless there is a positive contract between the nations covering that particular crime.

It has never been the practice of the United States Government either to demand or surrender a fugitive in the absence of special treaty stipulations providing for it.

The only notable exception was in the case of Arguelles, an officer of the Spanish army in Cuba. In 1864 the Captain-General of Cuba requested Secretary of State Seward to order the arrest and delivery of Don Jose Augustin Arguelles, charging him with a gross offense against the laws of Spain relating to the slave trade, and alleging that Arguelles was a fugitive, having fled to New York with a large sum of money, the fruit of his crime. Secretary Seward, with the approval of President Lincoln, ordered the arrest and delivery of Arguelles to the Spanish authorities, although there was no treaty with Spain providing for such action. Arguelles was so speedily and summarily taken out of the country that he had no opportunity to apply to a court of justice to test the lawfulness of the proceeding.

The Senate of the United States afterward made inquiry about the case and the President and Secretary defended their action upon the ground that it was done in "virtue of the law of nations and the Constitution of the United States."

As to the law of nations, as seen above, it is in a state of confusion in the absence of treaty; and as to the Constitution of the United States it does not contain a clause or a word in



reference to the extradition of fugitives charged with the commission of crime in foreign countries, independent of treaty stipulations.

Without going into the discussion of the subject we will say that it is now pretty definitely settled in this country that no department of the general government is either bound or authorized to deliver up criminals from other countries unless special provision is made for it by treaty. See *The Commonwealth vs. Deacon*, 10 Serg. & Rawle, 125; *The United States vs. Davis*, 2 Sumn., 482; *The Case of Jose Ferreira Dos Santos*, 2 Brock., 493; *Adriance vs. Lagrave*, 59 N. Y., 110.

It being settled that the United States Government is neither bound nor authorized to surrender a fugitive from another country in the absence of treaty stipulations, and can not demand the same by right or authority of other nations, the question arises, have the States of the Union the power to deliver up fugitives from other foreign countries upon demand from those countries?

Neither will we go into an elaborate discussion of this subject. Two considerations, we think, settle it, although other arguments could be adduced: 1. If the United States government is not authorized to deliver fugitives without treaty certainly the States could not, for this is a principle that applies to all nations. 2. If the States can not deliver fugitives in the absence of treaty, they can not do so at all, for the Constitution of the United States, in the first clause of Sec. 10, Article I, says: "No State shall enter into any treaty, alliance or confederation with any foreign power." And further along, in the same section, it says that "no State shall enter into any agreement or compact with another State, or with a foreign power," without the consent of Congress.

This settles the question. The States are excluded by the Constitution from all official intercourse with foreign nations.

They can not make a treaty. They can not contract to deliver up a fugitive, and they can not do the thing itself, for no State can do a thing which it has not the power to agree to do. See *The People, ex rel. Francis C. Barlow vs. Curtis*, 50 N. Y. 321.

*The Treaty Power.*—The Constitution of the United States reposes the power of making treaties in the President and Senate. Article II, Sec. 2, reads: "He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators concur." This language, being general, covers all sorts of treaties, as Justice Story remarks, "for peace or war, for commerce or territory, for alliance or succors, for indemnity, for injuries or payment of debts, for the recognition and enforcement of principles of public law, and for any other purposes which the policy or interests of independent sovereigns may dictate in their intercourse with each other."

Still the treaty power is limited by the Constitution itself, not in words but by construction, for it can not be supposed that the President and Congress are authorized to make a treaty that would supersede or interfere, in any way, with the other fundamental provisions of the Constitution.

There is no question, then, that the subject of extradition comes within the treaty power, especially as it has been made the subject of treaties between different countries from very early times."

*Citizens and Foreigners.*—It has been claimed by some that a difference ought to be made between citizens and foreigners; that if a citizen of the United States should commit a crime in England and flee to this country, his home, the Government ought to be under less obligation to deliver him up than a citizen of England who should flee here for refuge. But there is no distinction made whatever. Some treaties distinctly pro-

vide that neither nation shall be obliged to deliver up its own citizens, and, of course, in this case there is no obligation to deliver them up—the contract must be carried out. But many treaties make no such provision, and in this case no difference is made.

## EXTRADITION TREATIES.

The object of a treaty between two sovereign powers is to establish reciprocal rights and impose reciprocal obligations. The contract gives each the right to demand of the other a fugitive, and imposes on each the duty to deliver up such fugitive when the conditions are in accordance with the treaty stipulations. It is for each political sovereignty to determine how far it will concede to another the right to demand, and how far it will assume the obligation to surrender fugitives. When this is once determined by treaty the rights and obligations become reciprocal. Still the faithfulness with which the provisions of the treaty are carried out depends entirely upon national honor, for there is no way of enforcing the provisions of a treaty except by war.

*Crimes.*—In the treaties now existing between the United States and foreign nations there are altogether about thirty crimes for which extradition is provided. The principal ones are: 1. Arson. 2. Assassination. 3. Assault with intent to commit murder. 4. Bigamy. 5. Burglary. 6. Circulation or fabrication of counterfeit money. 7. Counterfeiting public bonds, bank bills, securities, stamps, dies, seals, etc. 8. Embezzlement of public money. 9. Embezzlement by public officers. 10. Embezzlement by persons hired or salaried. 11. Forgery. 12. Utterance of forged paper. 13. Infanticide. 14. Kidnaping. 15. Murder. 16. Mutiny. 17. Mutilation. 18. Parricide. 19. Piracy. 20. Poisoning. 21. Rape. 22. Robbery.

There are several other crimes of a special nature provided

for in a few treaties, as fraudulent bankruptcy and fraudulent barratry in the treaty with Peru, abortion and the willful destruction or obstruction of railroads, endangering human life, in the treaty with Belgium. The nations to a treaty frequently speak different languages, in which case the treaty is written in both languages. The terms or names used to designate crimes are the titles known and acknowledged between the parties to mean the same thing. If there is a different shade of meaning or doubt as to the meaning the definition is given, as in the supplemental article of Feb. 24, 1845, to the treaty of 1843 with France, burglary is placed in the extradition list and defined to be "breaking and entering by night into the mansion-house of another with intent to commit felony." If we have a statutory definition of burglary different from this, and the statutory crime were committed, we could not extradite the fugitive from France under this treaty. In order to extradite under a treaty the crime must be exactly the same as the one provided for by the treaty. The definition can not be enlarged or changed to a slightly different shade of offense, but must be interpreted strictly.

*Evidence.*—In the United States treaties the rule of evidence is that of the country on which the demand is made. As much evidence should be adduced to sustain the charge of criminality on which the demand is based as would justify the arrest and committment for trial in the country on which the demand is made. The laws of the country making the demand have nothing to do with this rule of evidence. The same is true in regard to determining whether the crime falls within the provisions of the treaty. The nation upon which the demand is made always decides this question.

The demand must be made by the highest political authority of the nation, or by ministers or officers, duly authorized to make such demand. The demand must recite the crime with



which the fugitive is charged; it must be accompanied by properly authenticated evidence of the guilt of the accused, and the crime charged must be one for which extradition is provided in the treaty. The demanding nation must make out its case and the nation on whom the demand is made is the sole judge of whether the case is made out, and from its decision there is no appeal. If the treaty specifically provides what evidence or proof shall be submitted, as is sometimes the case, then this must be followed.

The first treaty ever negotiated by the United States Government, which contained extradition provisions, was with Great Britain in 1794, and the 27th article of that treaty provided for the extradition of fugitives charged with murder and forgery. This provision of the treaty expired by limitation in 1806 and from that time to 1842 there was no extradition treaty existing between Great Britain and the United States. The treaty of 1842 added five crimes to the two of the old treaty, making seven in all. The treaty with Italy ratified March 3, 1868, recites eight extradition crimes. Each treaty stands alone and contains such list of crimes as the high contracting parties deem conducive to the ends of justice. As a rule, misdemeanors and all minor offenses are omitted, only the graver and more heinous crimes being made extraditable. Political offenses are expressly excluded from twenty of the treaties now existing between this and foreign countries. Treason and sedition are political offenses; so would be crimes against the right of suffrage. Sometimes crimes that would ordinarily be considered political are declared not to be, and made extraditable, as in the treaty with Belgium, of June 13, 1882, which provides that "an attempt against the life of the head of a foreign Government, or against that of any member of his family, when such attempt comprises the act either of murder or assassination, or of poisoning, shall not be considered a political offense, or an act connected with such an offense."

Crimes committed before the treaty is made are expressly excluded in eight existing treaties, and three others exclude crimes committed before the date of ratification of the treaty. If crimes committed before the treaty is made are not expressly excluded from its operation they become extraditable under the treaty. Judge Blatchford decided this point in the case of *Angelo De Giacomo*, 12 Blatch. 391, who was extradited under the treaty between the United States and the King of Italy. Judge Blatchford said that inasmuch as there was "no stipulation precluding its application to crimes committed before the date of the treaty, that it was applicable to such offenses, if within the enumeration, as well as to those committed subsequently to its date."

Two of these treaties declare that no surrendered person shall be tried for a crime committed before the one for which he was extradited.

If the person demanded has committed a crime in the country in which he has taken refuge, and has there been arrested for it, or is undergoing prosecution or punishment for it, extradition is ordinarily deferred until his acquittal, or the expiration of his punishment. This is expressly provided for in twenty-two of these treaties.

If two countries demand a fugitive at the same time from a third, the custom is to surrender to the demand which is the earliest in date, and this is expressly provided for in the present treaty with Spain.

A fugitive extradited to one country should not by that country be surrendered to a third without the consent of the first country unless the accused consent to go or unless he remain in the country receiving him first a sufficient length of time to have gone back to the country from which he was first brought. The present treaty with Belgium provides for this and fixes the time at one month after his discharge.

*Convicts.*—Unless the treaty expressly stipulate convicts they will not be extradited. In eleven existing treaties convicts are included. In other cases the fugitive is charged with crime and demanded for trial and punishment. Convicts are presumed to have been tried and are simply demanded for punishment.

It is now well settled in International Extradition that a person can not be put upon trial for a different crime from that for which he was extradited. If the fugitive, after his extradition, however, should commit a crime in the country that demanded and received him, the fact of his extradition would give him no immunity from the consequences of this crime. The fugitive has a right of asylum in the country to which he has fled as to all crimes committed in the demanding country prior to his extradition. When the country withdraws this right of asylum and delivers him up, it does so only as to those crimes, and offers no protection against any crime that he may commit in the future.

The decisions on this question are numerous and elaborate and the customs of courts in all countries are almost uniform in the position that a fugitive can not be tried for any crime other than the one for which he was extradited, unless it be committed subsequent to his extradition.

We have not space to give the entire text of all the existing extradition treaties between the United States and foreign countries, but the following synopses will be found to contain all the essential features of each. We present them in chronological order, giving dates, countries, extraditable crimes in each, and special provisions. The expense is always borne by the party who makes the requisition.

#### I. GREAT BRITAIN, AUGUST 9, 1842.

*Crimes.*—1. Murder. 2. Assault with intent to commit murder. 3. Piracy. 4. Arson. 5. Robbery. 6. Forgery. 7. Utterance of forged paper.

*Evidence.*—Such as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had there been committed.

II. FRANCE, NOVEMBER 9, 1843.

*Crimes.*—1. Murder (comprehending the crimes designated in the French Penal Code by the terms assassination, parricide, infanticide, and poisoning). 2. Attempt to commit murder. 3. Rape. 4. Forgery. 5. Arson. 6. Embezzlement by public officers when the same is punishable with infamous punishment.

*Surrender* is made on the part of France by the Keeper of the Seals, Minister of Justice, and of the United States by authority of the Executive.

Provisions do not apply to said crimes committed anterior to date of treaty, nor to political offenses.

Treaty continues in force until abrogated by the consent of the parties.

*Additional Article, Feb. 24, 1845.*—This article added two crimes, robbery and burglary, and was made a part of the original treaty. It defines both crimes: Robbery, the felonious and forcible taking from the person of another, of goods or money to any value, by violence, or putting him in fear. Burglary, breaking and entering by night into a mansion-house of another, with intent to commit felony, and the corresponding crimes included under the French law in the words *vol qualifiée crime*.

*Additional Article, Feb. 10, 1858.*—This article added the following crimes to the others: Forging or knowingly passing or putting in circulation counterfeit coin, or bank notes, or other paper current as money, with intent to defraud any person or persons; embezzlement by any person or persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.



## III. HAWAIIAN ISLANDS, DECEMBER 20, 1849.

*Crimes.*—1. Murder. 2. Piracy. 3. Arson. 4. Robbery.  
5. Forgery or the utterance of forged paper.

*Evidence.*—Same as Great Britain.

## IV. SWISS CONFEDERATION, NOVEMBER 25, 1850.

*Crimes.*—1. Murder (including assassination, parricide, infanticide and poisoning). 2. Attempt to commit murder. 3. Rape. 4. Forgery or the emission of forged papers. 5. Arson. 6. Robbery with violence, intimidation or forcible entry of an inhabited house. 7. Piracy. 8. Embezzlement by public officers, or by persons hired or salaried to the detriment of their employers, when these crimes are subject to infamous punishment.

Surrender is made on the part of the Swiss Confederation by the Federal Council.

Offenses committed before date of treaty excluded.

This treaty was made for ten years and renewable from year to year, without official notice by either party that they desired to withdraw. It can be terminated at any time by either party, giving twelve months' notice.

## V. PRUSSIA AND OTHER STATES, JUNE 16, 1852.

This treaty expressly includes the following States of the German Empire: Prussia, Saxony, Hesse, Hesse and on Rhine, Saxe-Weimar-Eisenach, Saxe-Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Brunswick, Anhalt-Dessau, Anhalt-Bernburg, Nassau, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Waldeck, Reuss (elder branch), and Ruess (junior branch), Lippe, Hess-Homburg, and the free city of Frankfort.

*Crimes.*—1. Murder. 2. Assault with intent to commit murder. 3. Piracy. 4. Arson. 5. Robbery. 6. Forgery. 7. Utterance of forged papers. 8. Fabrication or circulation of

counterfeit money, whether coin or paper money. 9. Embezzlement of public moneys.

*Evidence.*—Same as Great Britain.

*Citizens.*—No one of the contracting parties obliged to deliver up its own citizens.

*New Crime.*—If the fugitive commits another crime in the country in which he has taken refuge he shall not be delivered up until he has stood trial for said crime and been acquitted or served out his punishment.

*Termination.*—This treaty was made to continue in force until Jan. 1st, 1858, and then indefinitely until either party gives twelve months' notice of a desire to withdraw.

#### VI. BREMEN, SEPTEMBER 6, 1853.

The preceding treaty with Prussia and other German States contained a clause to the effect that its provisions should apply to any other State of the Germanic Confederation that might thereafter declare its accession thereto. Under that provision the free Hanseatic city of Bremen declared their accession to the said convention. This had the same effect as though Bremen had joined with the other German States in making the original treaty.

#### VII. BAVARIA, SEPTEMBER 12, 1853.

*Crimes.*—1. Murder. 2. Assault with intent to commit murder. 3. Piracy. 4. Arson. 5. Robbery. 6. Forgery. 7. Utterance of forged papers. 8. Fabrication or circulation of counterfeit money, whether coin or paper money. 9. Embezzlement of public moneys.

*Citizens* of neither nation are surrendered to the other.

*New Crime.*—Same as Prussia.

#### VIII. WURTTEMBERG, OCTOBER 13, 1853.

The King of Wurttemberg formally declared his accession

to the treaty of June 16, 1852, between the United States and Prussia and other States.

IX. MECKLENBURG-SCHWERIN, NOVEMBER 26, 1853.

The Grand Duke of Mecklenburg-Schwerin officially declared his accession to the treaty of June 16, 1852, between Prussia and the United States.

X. MECKLENBURG-STERLITZ, DECEMBER 2, 1853.

The Grand Duke of Mecklenburg-Sterlitz formally acceded to the same treaty.

XI. OLDENBURG, DECEMBER 30, 1853.

The Grand Duke of Oldenburg came in to the same treaty.

XII. SCHAUMBURG-LIPPE, JUNE 7, 1854.

The Reigning Prince of Schaumburg-Lippe acceded to the same treaty.

XIII. HANOVER, JANUARY 18, 1855.

The crimes and other conditions of this treaty are exactly the same as that made with Bavaria, No. VII.

XIV. TWO SICILIES, OCTOBER 1, 1855.

*Crimes.*—1. Murder (including assassination, parricide, infanticide and poisoning). 2. Attempt to commit murder. 3. Rape. 4. Piracy. 5. Arson. 6. Making and uttering false money. 7. Forgery, including forgery of evidences of public debt, bank bills and bills of exchange. 8. Robbery with violence, intimidation, or forcible entry of an inhabited house. 9. Embezzlement by public officers, including appropriation of public funds, when these crimes are subject to the punishment *della reclusione* or other severe punishment by the code of the Two Sicilies and to infamous punishment in the United States.

The executive of each country makes the surrender.

*Citizens* and subjects are exempt.

*Political* offenses and those committed prior to the treaty are excluded.

*Termination.*—This treaty can be terminated by either party by giving twelve months' notice of a desire so to do.

#### XV. AUSTRIA, JULY 3, 1856.

*Crimes.*—1. Murder. 2. Assault with intent to commit murder. 3. Piracy. 4. Arson. 5. Robbery. 6. Forgery. 7. Fabrication or circulation of counterfeit money, whether coin or paper money. 8. Embezzlement of public moneys.

*Citizens* are not surrendered by either party.

*Political* offenses and crimes committed prior to date of treaty are excluded.

*New Crimes.*—The fugitive who has committed a crime in the country to which he has fled will not be delivered up until he has been discharged from that.

#### XVI. BADEN, JANUARY 20, 1857.

*Crimes.*—1. Murder. 2. Assault with intent to commit murder. 3. Piracy. 4. Arson. 5. Robbery. 6. Forgery. 7. Fabrication or circulation of counterfeit money, whether coin or paper money. 8. Embezzlement of public moneys.

*Evidence* same as in Great Britain.

*Citizens* are not delivered up by either party.

*New crime* same as Austria.

*Political* crimes are exempt.

#### XVII. SWEDEN AND NORWAY, MARCH 21, 1860.

*Crimes.*—1. Murder (including assassination, parricide, infanticide, and poisoning). 2. Attempt to commit murder. 3. Rape. 4. Piracy (including mutiny on board a ship, whenever the crew or part thereof, by fraud or violence against the commander, have taken possession of the vessel). 5. Arson. 6. Robbery. 7. Burglary. 8. Forgery. 9. Fabrication or circulation of counterfeit money, whether coin or paper money.



10. Embezzlement by public officers, including appropriation of public funds.

*Citizens* are not surrendered by either party.

*Political* offenses are exempt.

*New crimes* same as Austria.

#### XVIII. VENEZUELA, AUGUST 27, 1860.

*Crimes.*—1. Murder (including assassination, parricide, infanticide and poisoning). 2. Attempt to commit murder. 3. Rape. 4. Forgery. 5. Counterfeiting of money. 6. Arson. 7. Robbery with violence, intimidation or forcible entry of an inhabited house. 8. Piracy. 9. Embezzlement by public officers or by persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

The executives make the surrender.

*Political* offenses and crimes committed prior to date of treaty exempt.

This treaty was made for eight years and then to continue indefinitely, each party having the power to arrest the operations of the treaty at any time by giving twelve months' notice.

#### XIX. MEXICO, DECEMBER 11, 1861.

*Crimes.*—1. Murder (including assassination, parricide, infanticide and poisoning). 2. Assault with intent to commit murder. 3. Mutilation. 4. Piracy. 5. Arson. 6. Rape. 7. Kidnaping, defining the same to be the taking and carrying away of a free person by force or deception. 8. Forgery, including the forging or making, or knowingly passing or putting in circulation counterfeit coin or bank notes, or other paper current as money, with intent to defraud any person or persons. 9. The introduction or making of instruments for the fabrication of counterfeit coin or bank notes, or other paper current as money. 10. Embezzlement of public moneys. 11. Robbery,

defining the same to be the felonious and forcible taking from the person of another of goods or money, to any value, by violence or putting him in fear. 12. Burglary, defining the same to be breaking and entering into the house of another with intent to commit felony. 13. The crime of larceny of cattle or other goods and chattels, of the value of twenty-five dollars or more, when the same is committed within the frontier States or Territories of the contracting parties.

The usual rule of evidence applies in this treaty.

*Requisition* is made (in case the crime is committed in the frontier States or Territories of the contracting parties) "through their respective diplomatic agents, or through the chief civil authority of said States or Territories, or through such chief civil or judicial authority of the districts or counties bordering on the frontier as may for this purpose be duly authorized by the said chief civil authority of the said frontier States or Territories, or when, from any cause, the civil authority of such State or Territory shall be suspended, through the chief military officer in command of such State or Territory."

*Surrender* is made by the executive authority of each country "except in cases of crimes committed within the limits of the frontier States or Territories, in which latter case the surrender may be made by the chief civil authority thereof, or such chief civil or judicial authority of the districts or counties bordering on the frontier as may for this purpose be duly authorized by the said chief civil authority of the said frontier States or Territories, or if, from any cause, the civil authority of such State or Territory shall be suspended, then such surrender may be made by the chief military officer in command of such State or Territory."

Following are exempt: political offenses; fugitive slaves; criminals who, when the offense was committed, shall have

been held in the place where the offense was committed in the condition of slaves; crimes enumerated committed anterior to exchange of ratifications of this treaty; and citizens—neither party delivers up its own citizens.

The treaty can be abrogated at any time by either party giving twelve months' notice of a desire to do so.

XX. HAYTI, NOVEMBER 3, 1864.

*Crimes.*—1. Murder (including assassination, parricide, infanticide and poisoning). 2. Attempt to commit murder. 3. Piracy. 4. Rape. 5. Forgery. 6. Counterfeiting of money. 7. Utterance of forged paper. 8. Arson. 9. Robbery. 10. Embezzlement by public officers, or by persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

*Surrender* is made by the executives.

*Political* offenses and crimes committed before the date of the treaty exempt.

*Citizens.*—Neither party obliged to deliver its own citizens.

Treaty made for eight years and continuable indefinitely; may be terminated by either party on twelve months' notice.

XXI. DOMINICAN REPUBLIC, FEB. 8, 1867.

*Crimes.*—1. Murder (including assassination, parricide, infanticide and poisoning). 2. Attempt to commit murder. 3. Rape. 4. Forgery. 5. Counterfeiting of money. 6. Arson. 7. Robbery, with violence, intimidation, or forcible entry of an inhabited house. 8. Piracy. 9. Embezzlement by public officers, or by persons hired or salaried to the detriment of their employers, when these crimes are subject to infamous punishment.

*Surrender* is made by the executives.

*Political* offenses and crimes committed prior to the date of the treaty are exempt.

Treaty was concluded for a term of eight years from exchange of ratifications and then indefinitely, either party now having privilege to arrest its operations by giving twelve months' notice to the other.

## XXII. ITALY, MARCH 23, 1868.

*Crimes.*—1. Murder, comprehending the crimes designated in the Italian penal code by the terms of parricide, assassination, poisoning and infanticide. 2. Attempt to commit murder. 3. Rape. 4. Arson. 5. Piracy. 6. Mutiny on board a ship, whenever a crew or a part thereof, by fraud or violence against the commander, have taken possession of the vessel. 7. Burglary, defined to be the action of breaking and entering by night into the house of another with intent to commit felony. 8. Robbery, defined to be the action of feloniously and forcibly taking from the person of another goods or money, by violence or putting him in fear. 9. Forgery, by which is understood the utterance of forged papers, the counterfeiting of public sovereign or government acts. 10. Fabrication or circulation of counterfeit money, either coin or paper, of public bonds, bank notes and obligations, and, in general, of any title and instrument of credit whatsoever, the counterfeiting of seals, dies, stamps and marks of State and public administrations, and the utterance thereof. 11. The embezzlement of public moneys committed within the jurisdiction of either party, by public officers or depositors. 12. Embezzlement by any person or persons hired or salaried to the detriment of their employers, when these crimes are subject to infamous punishment.

*Political offenses are exempt.*

Persons delivered up for any of the crimes enumerated shall not be tried for any ordinary crime committed previously to that for which his surrender is asked.

*New Crime.*—If fugitive has committed a new crime in the



country to which he has fled, his extradition may be deferred until he is discharged from that.

*Requisitions* shall be made by the diplomatic agents of the contracting parties, or, if they are absent, by superior consular officers.

*Convicts* and fugitives charged with crime are alike extradited.

The treaty was made for five years from date of ratification, and if neither party gave notice six months before expiration of time of a desire to withdraw, then it was to continue for another five years under same conditions. It can now be arrested at the end of any five years from the date of its ratification by either party giving six months' previous notice.

*Additional Article, Jan. 21, 1869.*—The concluding paragraph of second article, relating to crimes, was amended so as to read: Embezzlement by any person, or persons, hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment according to the laws of the United States, and criminal punishment according to the laws of Italy.

XXIII. REPUBLIC OF SALVADOR, MAY 23, 1870.

*Crimes.*—1. Murder, comprehending the crimes designated in the penal codes of the contracting parties by the terms homicide, parricide, assassination, poisoning and infanticide. 2. Attempt to commit murder. 3. Rape. 4. Arson. 5. Piracy. 6. Mutiny on board a ship whenever a crew, or part thereof, by fraud or violence against the commander, have taken possession of the vessel. 7. Burglary, defined to be the action of breaking and entering by night into the house of another, with intent to commit felony. 8. Robbery, defined to be the action of feloniously and forcibly taking from the person of another goods or money by violence, or putting him in fear. 9. Forgery, by which is understood the utterance of

forged papers, the counterfeiting of public, sovereign or government acts. 10. Fabrication or circulation of counterfeit money, either coin or paper, of public bonds, bank-notes, and obligations, and, in general, of all things being titles or instruments of credit, the counterfeiting of seals, dies, stamps, and marks of State and public administration, and the utterance thereof. 11. Embezzlement of public moneys, committed within the jurisdiction of either party, by public officers or depositors. 12. Embezzlement by any person or persons, hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

*Political* crimes are exempt, and a person delivered up to be tried for one of these enumerated crimes shall not be tried for any ordinary crime committed before the one for which he was extradited.

*New Crime.* Same as Norway and Sweden.

In no case does either of the high contracting parties deliver up its own subjects or citizens. If the crime complained of is one for which he would be punished in his own country, the evidence, information, documents, instruments or tools used in its commission, etc., may be transmitted to his country for the purpose of prosecuting the case there.

*Requisitions* shall be made by the respective diplomatic agents of the contracting parties, or in their absence, by superior consular officers.

*Convicts* and persons charged with crime are both extradited.

Treaty made for ten years from date of exchange of ratifications, and if neither party gives six months' notice of desire to withdraw, it shall continue ten years longer and so on.

#### XXIV. NICARAGUA JUNE 25, 1870.

*Crimes.*—1. Murder, comprehending assassination, parricide, infanticide and poisoning. 2. Rape. 3. Arson. 4. Pi-

racy. 5. Mutiny on board a ship, whenever the crew or a part thereof, by fraud or violence against the commander, have taken possession of the vessel. 6. Burglary, defined same as in Republic of Salvador. 7. Robbery, defined same as in Republic of Salvador. 8. Forgery, by which is understood the utterance of forged papers, the counterfeiting of public, sovereign or government acts. 9. Fabrication or circulation of counterfeit money, either coin or paper, of public bonds, bank notes, and obligations, and, in general, of all titles or instruments of credit, the counterfeiting of seals, dies, stamps and marks of State and public administrations, and the utterance thereof. 10. Embezzlement of public moneys, committed within the jurisdiction of either party, by public officers or depositors. 11. Embezzlement by any person or persons hired or salaried, to the detriment of their employers, when these crimes are subjected to infamous punishment.

*Political* offenses are exempt.

Persons delivered up shall not be tried for any ordinary crime committed previously to that for which their surrender is asked.

*New Crime.*—If the fugitive has committed a new crime in the country in which he has sought asylum, and has been arrested or convicted therefor, his extradition may be deferred until he shall have been acquitted, or served out his term of imprisonment.

*Requisitions* shall be made by the respective diplomatic agents of the contracting parties, or, in their absence, by superior consular officers.

*Convicts* are extradited. A copy of the sentence of the court in which he may have been convicted, authenticated under its seal, and an attestation of the official character of the judge by the proper executive authority, and of the latter by the Minister or Consul of the United States or of Nicaragua, respectively, shall accompany the requisition.

If the fugitive is charged with crime only, then a duly authenticated copy of the warrant for his arrest in the country where the crime may have been committed, and of the depositions upon which such warrant may have been issued, must accompany the requisition.

The executives of the respective countries issue the warrants for the apprehension of the fugitive and he is brought before the proper judicial tribunal for examining the question of extradition.

Treaty continues in force five years from the date of ratification, and if neither party gives the other six months' previous notice of its intention to withdraw, the treaty shall continue five years longer, and so on.

XXV. PERU, SEPTEMBER 12, 1870.

*Crimes.*—1. Murder, comprehending the crimes of parricide, assassination, poisoning and infanticide. 2. Rape, abduction by force. 3. Bigamy. 4. Arson. 5. Kidnaping, defining the same to be the taking or carrying away of a person by force or deception. 6. Robbery, highway robbery, larceny. 7. Burglary, defined to be the action of breaking and entering by night time into the house of another person with intent to commit a felony. 8. Counterfeiting or altering money, the introduction or fraudulent commerce of and in false coin or money; counterfeiting the certificates or obligations of the government, of bank notes and of any other documents of public credit, the altering and use of the same; forging or altering judicial judgments or decrees of the government or courts, of the seals, dies, postage stamps and revenue stamps of the government, and the use of the same; forging public and authentic deeds and documents, both commercial and of banks, and the use of the same. 9. Embezzlement of public moneys, committed within the jurisdiction of either party, by public officers or bailees, and embezzlement by any person hired or salaried. 10.



Fraudulent bankruptcy. 11. Fraudulent barratry. 12. Mutiny on board of a vessel when the persons who compose the crew have taken forcible possession of the same, or have transferred the ship to pirates. 13. Severe injuries intentionally caused on railroads, to telegraph lines or to persons by means of explosion of mines or steam-boilers. 14. Piracy.

*Political* offenses are exempt.

Enumerated crimes committed anterior to the date of exchange of ratifications are also excluded.

Neither party delivers up its own citizens.

*Convicts* are extradited. A condemnatory sentence, or order of arrest, or other process equivalent to such order, must be sent with the demand. The character and gravity of the imputed acts and the dispositions of the penal laws, relative to the case, must also be stated. The documents sent with the demand must be originals or certified copies, legally authorized by the tribunals, or by a competent person. If possible, a description of the person sought to be extradited should be sent, or other proof toward his identity.

If the person accused is not a citizen of either of the countries the one granting the requisition will inform the Government of the country to which the accused or condemned belongs, of the demand made, and if the last named Government reclaims the individual on its own account for trial in its own tribunals, the Government on which the demand was made may, at will, deliver the criminal to the State in whose territories the crime was committed, or to that to which the criminal belongs.

If an accused person is demanded under this treaty, and also at the same time by some other Government, he shall be delivered to the one charging the gravest offense, and when the offenses are of a like nature and gravity, the delivery shall be made to the Government making the first demand, and if the

dates be the same, then to the nation to which the criminal may belong.

*New Crime.*—If the person claimed is accused or sentenced in the country where he may have taken refuge, for a crime or misdemeanor committed in that country, his delivery may be delayed until the definitive sentence releasing him be pronounced, or until such time as he may have complied with the punishment inflicted on him in the country where he took refuge.

In cases not admitting of delay, and especially in those where there is danger of escape, each of the two Governments authorized by the order for apprehension, may, by the most expeditious means, ask and obtain the arrest of the person accused or sentenced, on condition of presenting the said order for apprehension as soon as may be possible, not exceeding four months.

Treaty continues in force until abrogated by mutual consent, and the party desiring to withdraw must give twelve months' notice to the other of such desire.

This treaty provides for the delivery of persons charged with these crimes, whether as principals, accessories or accomplices.

XXVI. ORANGE FREE STATE, DECEMBER 22, 1871.

*Crimes.*—1. Murder (including assassination, parricide, infanticide and poisoning). 2. Attempt to commit murder. 3. Rape. 4. Forgery, or the emission of forged papers. 5. Arson. 6. Robbery with violence, intimidation or forcible entry of an inhabited house. 7. Piracy. 8. Embezzlement by public officers, or by persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

*Surrender* is made by the executives.

*Political* offenses are excluded.

Offenses committed before the date of the treaty are excluded.

Treaty was concluded for ten years from date of ratification, and then indefinitely from year to year, each party having the privilege to withdraw by giving to the other twelve months' notice of a desire to do so.

XXVII. ECUADOR, JUNE 28, 1872.

*Crimes.*—1. Murder, including assassination, parricide, infanticide and poisoning. 2. Rape. 3. Arson. 4. Piracy and mutiny on ship-board, when the crew or a part thereof, by fraud or violence against the commanding officer, have taken possession of the vessel. 5. Burglary, this being understood as the act of breaking or forcing an entrance into another man's house with intent to commit crime. 6. Robbery, this being defined as the act of taking from the person of another, goods or money with criminal intent, using violence or intimidation. 7. Forgery, which is understood to be the willful use or circulation of forged papers or public documents. 8. Fabrication or circulation of counterfeit money, either coin or paper, of public bonds, bank bills and securities, and, in general, of any kind of titles to or instruments of credit, the counterfeiting of stamps, dies, seals and marks of the State and of the administrative authorities and the sale or circulation thereof. 9. Embezzlement of public property, committed within the jurisdiction of either party, by public officers or depositaries.

*Political* offenses are exempt.

Crimes committed previously to the one for which the person is extradited are also exempt.

*New Crime.*—Extradition may be deferred until crime committed in country of refuge is atoned for.

*Requisitions* are made by the diplomatic agents, or, in their absence, by superior consular officers.

Convicts may be extradited and in this case the requisition

must be accompanied by a copy of the sentence of the court that has convicted him, authenticated under seal, and an attestation of the official character of the judge who signed it, made by the proper executive authority; also by an authentication of the latter by the Minister or Consul of the United States or Ecuador, respectively. When the fugitive is merely charged with crime, a duly authenticated copy of the warrant for his arrest in the country where the crime has been committed, and of any evidence in writing upon which such warrant may have been issued, must accompany the requisition. The executive may then order the arrest, in order that he may be brought before the judicial authority, which is competent to examine the question of extradition. If the evidence and law show the case to be within the treaty the fugitive will be delivered.

The treaty was made for ten years from ratification, and in case neither party gives to the other one year's notice of its intention to terminate the same, it shall continue in force for another ten years, and so on.

XXVIII. THE OTTOMAN EMPIRE, AUGUST 11, 1874.

*Crimes.*—Persons shall be delivered up who shall have been convicted of, or be charged, according to the provisions of this convention, with any of the following crimes:

1. Murder, comprehending the crimes designated by the terms of parricide, assassination, poisoning and infanticide.
2. The attempt to commit murder.
3. Rape.
4. Arson.
5. Piracy and mutiny on board a ship, whenever the crew, or a part thereof, by fraud or violence against the commander, have taken possession of the vessel.
6. Burglary, defined to be the action of breaking and entering by night into the house of another, with intent to commit felony.
7. Robbery, defined to be the action of feloniously and forcibly taking from the person of another, goods or money, by violence or putting him in



fear. 8. Forgery, by which is understood the utterance of forged papers, the counterfeiting of public, sovereign or government acts. 9. Fabrication or circulation of counterfeit money, either coin or paper, of public bonds, bank notes and obligations, and, in general, of all things being titles and instruments of credit, the counterfeiting of seals, dies, stamps and marks of State and public administrations, and the utterance thereof. 10. Embezzlement of public moneys, committed within the jurisdiction of either party, by public officers or depositors. 11. Embezzlement by any person or persons, hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

*Political crimes are exempt.*

Persons delivered up for one of the enumerated crimes shall not be tried for any ordinary crime committed previously to that for which he was extradited.

*New Crime.*—Persons arrested or convicted of a crime in the country in which he has sought refuge may not be surrendered until he shall have been acquitted or have served out his term of imprisonment to which he may have been sentenced.

*Requisitions* shall be made by the diplomatic agents, or, in case of their absence, by superior consular officers. In case of a convict a copy of the sentence of the court in which he was convicted, authenticated under its seal, and an attestation of the official character of the judge by the proper executive authority, and of the latter by the Minister or Consul of the United States or the Sublime Porte, respectively, shall accompany the requisition.

When the fugitive is charged with crime only, a duly authenticated copy of the warrant for his arrest, or of the depositions upon which such warrant was based, must accompany the requisition. The executive may then issue a warrant for the apprehension of the fugitive in order that he may be

brought before the proper judicial authority for examination. If the law and the evidence show the case to be within the provisions of this treaty then he shall be surrendered.

Neither of the parties is obliged to deliver up its own citizens.

The treaty was made for five years from exchange of ratifications, but if neither party gives to the other six months' notice of its intention to terminate the treaty the convention shall remain in force five years more and so on.

XXIX. SPAIN, JANUARY 5, 1877.

*Crimes.*—Persons charged with or convicted of any of the following crimes shall be delivered up: 1. Murder, comprehending the crimes designated by the terms of parricide, assassination, poisoning or infanticide. 2. Attempt to commit murder. 3. Rape. 4. Arson. 5. Piracy or mutiny on board ship when the crew or other persons on board, or part thereof, have by fraud or violence against the commander, taken possession of the vessel. 6. Burglary, defined to be the act of breaking and entering into the house of another in the night time with intent to commit a felony therein. 7. The act of breaking and entering the offices of the Government and public authorities, or offices of banks, banking-houses, savings banks, trust and insurance companies, with intent to commit a felony therein. 8. Robbery, defined to be the felonious and forcible taking from the person of another, goods or money, by violence or putting him in fear. 9. Forgery, or the utterance of forged papers. 10. Forgery or falsification of the official acts of the Government or public authority, including courts of justice, or the uttering or fraudulent use of any of the same. 11. Fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, bank notes or other instruments of public credit; of counterfeit seals, stamps, dies and marks of State or public administration, and the utterance,

circulation, or fraudulent use of any of the above mentioned objects. 12. Embezzlement of public funds, committed within the jurisdiction of one or the other party, by public officers or depositaries. 13. Embezzlement by any person or persons, hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment. 14. Kidnaping, defined to be the detention of a person or persons in order to exact money from them or for any other unlawful end.

*Political* offenses are not extraditable.

Persons surrendered by virtue of this treaty shall not be tried or punished for any crime or offense other than that for which they were extradited, unless it be one of the crimes enumerated above and committed subsequent to the exchange of ratifications, and no person shall be extradited for any crime committed previous to the ratification of the treaty.

If from lapse of time or other lawful cause the criminal is exempt from prosecution or punishment in the country in which the crime was committed he shall not be surrendered.

*New Crime.*—If the one accused be actually under prosecution, out on bail or in custody for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

If the criminal fugitive, claimed by one of the parties to this treaty, is also at the same time claimed by some other nation under treaty with it, then he shall be delivered to the one whose demand is the earliest in date.

Neither party is obliged to deliver up its own citizens or subjects.

Everything found in the possession of the fugitive at the time of his arrest which may be material as evidence in proving his crime shall, so far as practicable, be delivered up with

his person at the time of his surrender, but the rights of third parties in regard to such articles shall be duly respected.

This treaty applies to all foreign or colonial possessions of either of the contracting parties.

*Requisitions* shall be made by the respective diplomatic agents, or if they are absent, or if extradition is sought from a colonial possession, then by superior consular officers. Upon their request a warrant of arrest is issued and the fugitive brought before the court that the evidence of criminality may be heard and considered. If the evidence be deemed sufficient the prisoner will be surrendered. If he is a convict the party asking his surrender must present a copy of the sentence of the court before which he was convicted, duly authenticated. If he is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which it was issued, shall be produced with such other proof as may be deemed competent.

The treaty may be terminated at any time by either party giving to the other six months' notice of a desire to withdraw.

XXX. THE NETHERLANDS, MAY 22, 1880.

*Crimes.*—Persons shall be delivered up who shall have been charged with, or convicted of, any of the following crimes:

1. Murder, comprehending the crimes of assassination, parricide, infanticide and poisoning.
2. The attempt to commit murder.
3. Rape.
4. Arson.
5. Burglary, or the corresponding crime in the Netherlands law under the description of thefts committed in an inhabited house by night, and by breaking in, by climbing or forcibly.
6. Breaking into and entering public offices, or the offices of banks, banking-houses, savings banks, trust companies, or insurance companies, with intent to commit theft therein, and also the thefts resulting from such act.
7. Robbery, or the corresponding crime pun-



ished in the Netherlands law under the description of theft committed with violence or by means of threats. 8. Forgery, or the utterance of forged papers, including the forgery or falsification of official acts of the government or public authority or courts of justice affecting the title or claim to money or property. 9. Counterfeiting, falsifying, or altering of money, whether coin or paper, or of bank notes, or instruments of debt created by National, State or Municipal Governments, or coupons thereof, or of seals, stamps, dies or marks of State, or the utterance or circulation of the same. 10. Embezzlement by public officers charged with the custody or receipt of public funds. 11. Embezzlement by any person or persons hired or salaried, to the detriment of their employers, where the offense is subject to punishment by the law of the Netherlands as *abus de confiance*, if extradition is demanded by the United States, or is subject to punishment as a crime in the United States, if extradition is demanded by the Netherlands.

*Political* offenses are exempt, and all acts connected with such crimes or offenses. No person having been extradited under this treaty shall afterward be tried for any political offense committed prior to his extradition. Crimes committed before ratification of treaty are exempt. A person shall not be punished or tried for any crime other than the one for which he was extradited, unless it be one of the crimes enumerated above, and committed subsequent to the exchange of ratification.

A fugitive criminal, exempt from prosecution or punishment by lapse of time or otherwise, in the country demanding his surrender, shall not be delivered up; nor in case his extradition is asked for the same crime for which he has been tried, convicted or acquitted in that country, or so long as he is under prosecution for the same.

*New Crime.*—If fugitive has committed a new crime in the

country in which he has taken refuge, the surrender may be deferred until he is duly set at liberty from that offense.

If two or more demands are made at the same time, for the same fugitive, the one shall be given the preference which is earliest in date.

*Citizens* are not delivered up by either party.

Everything found in possession of the criminal at the time of his arrest, which may be valuable as evidence in proving the crime, shall so far as is practicable, duly respecting the rights of third parties interested, be delivered up with his person at the time of surrender.

*Requisitions* shall be made by the diplomatic agents of the parties, or if they be absent, by consular officers.

*Convicts*.—If the fugitive has been convicted of a crime, a copy of the sentence of the court in which he may have been convicted, authenticated under its seal and accompanied by an attestation of the official character of the judge by the proper authority, shall be furnished.

If the fugitive is only charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant was issued, shall be produced, authenticated as above provided, with such other evidence as may be deemed competent in the case.

The treaty took effect on the twentieth day after its promulgation, and continues until either party shall terminate it by giving to the other six months' notice.

XXXI. BELGIUM, JUNE 13, 1882.

*Crimes*.—Persons shall be delivered up who shall be convicted of or charged with any of the following crimes: 1. Murder, comprehending the crimes designated in the Belgian Penal Code by the terms parricide, assassination, poisoning and infanticide. 2. Attempt to commit murder. 3. Rape, or attempt to com-

mit rape. 4. Bigamy. 5. Abortion. 6. Arson. 7. Piracy, or mutiny on shipboard whenever the crew, or part thereof, shall have taken possession of the vessel by fraud or by violence against the commander. 8. Burglary, defined to be the act of breaking and entering by night into the house of another, with the intent to commit felony. 9. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money or goods by violence, or putting him in fear; and the corresponding crimes punished by Belgian laws, under the description of thefts committed in an inhabited house by night, and by breaking in by climbing or forcibly, and thefts committed with violence or by means of threats. 10. Forgery, by which is understood the utterance of forged papers, and also the counterfeiting of public, sovereign, or governmental acts. 11. Fabrication or circulation of counterfeit money, either coin or paper, or of counterfeit public bonds, coupons of the public debt, bank notes, obligations, or, in general, anything being a title or instrument of credit; the counterfeiting of seals and dies, impressions, stamps, marks of State and public administrations, and the utterance thereof. 12. Embezzlement of public moneys, committed within the jurisdiction of either party by public officers and depositaries. 13. Embezzlement by any person, or persons, hired or salaried to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed. 14. Willful and unlawful destruction, or obstruction, of railroads, which endangers human life. 15. Reception of articles obtained by means of one of the crimes or offenses provided for by this treaty.

Extradition may also be granted for the attempt to commit any of the crimes above enumerated when such attempt is punishable by the laws of both contracting parties.

A person surrendered under this convention shall not be

tried or punished in the country to which his extradition has been granted, nor given up to a third power for a crime or offense, not provided for by the present convention and committed previously to his extradition, until he shall have been allowed one month to leave the country after having been discharged; and, if he shall have been tried and condemned to punishment, he shall be allowed one month after having suffered his penalty, or having been pardoned.

He shall moreover not be tried or punished for any crime or offense provided for by this convention committed previous to his extradition, other than that which gave rise to the extradition, without the consent of the Government which surrendered him.

The consent of that Government shall likewise be required for the extradition of the accused to a third country, unless the accused himself shall ask of his own accord to be tried or to undergo his punishment, or when he shall not have left within the space of time above specified the territory of the country to which he has been surrendered.

*Political* offenses are exempt; also offenses connected therewith. When a person has been extradited under this treaty he shall in no case be prosecuted and punished in the State to which he was extradited on account of a political crime committed by him previous to such extradition, or on account of an act connected with such political crime unless he has been at liberty to leave the country for one month after having been tried, and in case of condemnation, for one month after having suffered his punishment, or having been pardoned.

An attempt against the life of the head of a foreign Government, or against that of any member of his family, when such attempt comprises the act either of murder, or assassination, or of poisoning, shall not be considered a political offense, or an act connected with such an offense.



*Citizens* are not surrendered by either party.

*New Crime.*—As in other treaties the fugitive is retained until the new crime is atoned for, or he is acquitted.

*Requisitions* shall be made by the diplomatic agents of the contracting parties, or, in the event of their absence, by superior consular officers.

If the fugitive is a convict, a copy of the sentence of the court in which he was convicted under its seal, and attestation of the official character of the judge by the proper executive authority, and of the latter by the Minister or Consul of the United States or of Belgium, respectively, shall accompany the requisition. When the fugitive is only charged with crime, a duly authenticated copy of the warrant for his arrest in the country where the crime was committed, and of the depositions upon which such warrant was issued, must accompany the requisition as aforesaid.

The executives issue the warrant for the apprehension of the fugitive, and he is brought before the proper judicial tribunal, and if decided that, according to the law and evidence, the extradition is due pursuant to the treaty, the fugitive may be given up.

When proceedings are barred against the fugitive by limitation of time or otherwise, extradition shall not be granted.

Articles found in possession of accused and obtained through the commission of the acts with which he is charged, or that may be used as evidence of the crime for which his extradition is demanded, shall be seized, if the competent authority shall so order, and shall be surrendered with his person.

But the rights of third parties in such articles shall be respected.

Treaty took effect thirty days after exchange of ratifications and continues until either party shall give to the other six months' notice of a desire to withdraw.

This treaty superseded the one of March 19, 1874.

## XXXII. SPAIN (SUPPLEMENTARY), AUGUST 7, 1882.

Paragraph 5 of article II., of the treaty of Jan. 5, 1877, relating to piracy or mutiny is abrogated and the following substituted:

## 5. Crimes committed at sea:

(a.) Piracy as commonly known and defined by the law of nations.

(b.) Destruction or loss of a vessel caused intentionally, or conspiracy and attempt to bring about such destruction or loss, when committed by any person or persons on board of said vessel, on the high seas.

(c.) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud or violence, taking possession of such vessel.

Paragraph 12, of said article, is amended to read as follows:

12. The embezzlement or criminal malversation of public funds, committed within the jurisdiction of one or the other party, by public officers or depositaries.

Paragraph 13, of the same article is amended to read as follows:

13. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries.

Paragraph 14, of said article, is amended to read as follows:

14. Kidnaping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or from their families, or for any other unlawful end.

In continuation and as forming a part of said article, relating to crimes, shall be added the following paragraphs:

15. Obtaining by threats of injury or false devices, money, valuables, or other personal property, and the purchase of the same with the knowledge that they have been so obtained, when the crimes or offenses are punishable by imprisonment or other corporal punishment by the laws of both countries.

16. Larceny, defined to be the theft of effects, personal property or money, of the value of twenty-five dollars or more.

17. Slave-trade, according to the laws of each of the two countries, respectively.

18. Complicity in any of the crimes or offenses enumerated in the convention of January 15, 1877, as well as in these additional articles, provided that the persons charged with such complicity be subject as accessories to imprisonment or other corporal punishment by the laws of both countries.

The following provisions were also added:

When the fugitive is arrested and brought before the examining court, if it shall appear that the warrant for his arrest was issued upon a request sent by telegraph, the judge or magistrate may at his discretion hold the accused for a period not exceeding twenty-five days, that legal evidence of his guilt may be furnished and laid before the examining court; and if at the end of twenty-five days such evidence is not produced, the person arrested shall be released, provided that the examination of the charges preferred against the accused shall not be actually going on.

In every case of request for extradition under the treaty of January 5, 1877, and of these additional articles, the legal officers or fiscal ministry of the country where the proceedings are had shall assist the officers of the Government demanding the extradition, before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation shall be made against the Government demanding extradition, except in case of those officers

who are paid by special fees for their services, and they shall be entitled to receive from the Government demanding the surrender the customary fees for the services performed by them, according to the rule or law of compensation for such services in the country of which they are officers.

All the provisions of the aforesaid convention of January 5, 1877, not abrogated by this supplementary treaty, apply to these articles with the same force as to the said original convention.

XXXIII. GRAND DUCHY OF LUXEMBURG, OCT. 29, 1883.

*Crimes.*—Persons shall be delivered up who shall be convicted of or charged with any of the following crimes: 1. Murder, including parricide, assassination, poisoning and infanticide. 2. Attempt to commit murder. 3. Rape, or attempt to commit rape. 4. Bigamy. 5. Abortion. 6. Arson. 7. Piracy or mutiny on shipboard, whenever the crew, or a part thereof, shall have taken possession of the vessel by fraud or violence against the commander. 8. Burglary, defined to be the act of breaking and entering by night into the house of another with intent to commit felony. 9. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money or goods, by violence or putting him in fear, and the corresponding crimes punished by the laws of Luxemburg under the description of thefts committed in an inhabited house by night, and by breaking in by climbing or forcibly, and thefts committed with violence or by means of threats. 10. Forgery, by which is understood the utterance of forged paper, and also the counterfeiting of public, sovereign or governmental acts. 11. Fabrication or circulation of counterfeit money, either coin or paper, or of counterfeit public bonds, coupons of the public debt, bank notes, obligations, or, in general, any thing being a title or instrument of credit; the counterfeiting of seals and dies, impressions, stamps and marks



of State and public administration, and the utterance thereof.

12. Embezzlement of public moneys committed within the jurisdiction of either party by public officers or depositaries.

13. Embezzlement by any person or persons hired or salaried, to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed.

14. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

Reception of articles obtained by means of one of the crimes or offenses provided for by the present convention.

Extradition may also be granted for the attempt to commit any of the crimes above enumerated when such attempt is punishable by the laws of both contracting parties.

A person surrendered under this convention shall not be tried or punished or given up to a third power for a crime or offense, not provided for by the present convention and committed previously to his extradition, until he shall have been allowed one month to leave the country after being discharged or one month after suffering his penalty or being pardoned.

He may be tried or punished for any crime or offense provided for by this convention committed previous to his extradition, other than that for which he was extradited, and notice of the purpose to so try him, with specifications of the offense charged, shall be given the Government which surrendered him, which may demand the same papers and proofs as in a case of ordinary extradition under this treaty.

The consent of that Government shall likewise be required for the extradition of the accused to a third country unless the accused shall ask of his own accord to be tried or to undergo his punishment, or unless he shall not have left the country within the space of time specified above.

*Political offenses are exempt.*

A person extradited for any of the enumerated offenses

shall not be subsequently tried or punished for any political offense committed previously to his extradition, or on account of any act connected with such political offense, unless he has been at liberty to leave the country for one month after having been tried, and if convicted, for one month after expiration of sentence or pardon.

An attempt against the life of the head of a foreign Government, or against that of any member of his family when such an attempt comprises the act either of murder, or assassination, or of poisoning, shall not be considered a political offense or an act connected with such an offense.

*Citizens* are not delivered up by either party.

*New Crime*.—Same as Belgium.

*Requisition* shall be made through the respective diplomatic channels, or, in their absence, by the superior consular officers.

If the fugitive is a convict, a copy of the sentence of the court in which he was convicted, authenticated under its seal, and attestation of the official character of the judge by the proper executive authority, and of the latter by the Minister or Consul of the United States or of Luxemburg, must accompany the requisition. If the fugitive is merely accused of crime, a duly authenticated copy of the warrant for his arrest, and of the depositions upon which such warrant was issued, must accompany the requisition.

The executives issue the warrants for apprehension and if upon examination before the proper tribunal the case is found to be within the provisions of the treaty the surrender will be made.

If proceedings have been barred in the country where crime was committed by lapse of time or for other cause, extradition will not be granted. Articles found in possession of accused party and obtained through commissions of crime charged, or that may be used as evidence to prove said crime, shall be

seized and surrendered with his person; but the rights of third persons interested in them shall be respected.

Treaty took effect thirty days after ratification and continues until terminated by either party giving to the other six months' notice of a desire to do so.

XXXIV. JAPAN, APRIL 29, 1886.

*Crimes.*—Persons accused or convicted of one of the crimes or offenses named below, committed in the jurisdiction of one and found in the jurisdiction of the other, shall be delivered up. 1. Murder, and assault with intent to commit murder. 2. Counterfeiting or altering money, or uttering or bringing into circulation counterfeit or altered money; counterfeiting certificates or coupons of public indebtedness, bank notes, or other instruments of public credit of either of the parties, and the utterance or circulation of the same. 3. Forgery, or altering and uttering what is forged or altered. 4. Embezzlement or criminal malversation of the public funds, committed within the jurisdiction of either party, by public officers or depositaries. 5. Robbery. 6. Burglary, defined to be the breaking and entering by night time into the house of another person with the intent to commit a felony therein; and the act of breaking and entering the house of another, whether in the day or night-time, with the intent to commit a felony therein. 7. The act of entering, or of breaking and entering, the offices of the government and public authorities, or the offices of the banks, banking-houses, savings-banks, trust companies, insurance or other companies, with intent to commit a felony therein. 8. Perjury. 9. Rape. 10. Arson. 11. Piracy by the law of nations. 12. Murder, assault with intent to kill, and manslaughter, committed on the high seas, on board a ship bearing the flag of the demanding country. 13. Malicious destruction of, or attempt to destroy, railways, trains, vessels, bridges, dwellings, public edifices, or other buildings, when the act endangers human life.

If the person demanded be held for trial in the country on which the demand is made, the latter may, at its option, deliver him up or proceed with trial, but unless the said trial shall be for the same crime for which he is demanded, the delay shall not prevent ultimate extradition.

*Political* offenses are exempt.

Persons surrendered for an extraditable crime shall not then be tried or punished for a political offense committed prior to his extradition, nor for any offense other than that in respect of which the extradition is granted.

*Requisition* is made through the diplomatic agents, or in their absence, by superior consular officers.

If the fugitive is a convict, a copy of the sentence of the court in which he was convicted, authenticated under its seal, and an attestation of the official character of the judge by the proper executive authority, and of the latter by the Minister or Consul of the United States or of Japan, shall accompany the requisition. If he is merely charged with crime, a duly authenticated copy of the warrant of arrest and of the depositions upon which such warrant was issued, must accompany the requisition.

On being informed by telegraph or other written communication through a diplomatic channel, that a lawful warrant has been issued by competent authority upon probable cause for the arrest of a fugitive criminal charged with any of the above enumerated crimes, and on being assured that a request for the surrender of such criminal is about to be made, each Government will endeavor to procure so far as it lawfully may the provisional arrest of such criminal and keep him in safe custody for a reasonable time, not to exceed two months, to await the production of the documents upon which the claim for extradition is founded.

Neither party delivers up its own citizens.



Treaty went into force sixty days after ratification and may be terminated at any time by either party giving to the other six months' notice of a desire to do so.

XXXV. NORTH GERMAN CONFEDERATION, FEB. 22, 1868.

This treaty is denominated a "Convention relative to Naturalization," but the third Article refers to extradition and is as follows:

"The convention for the mutual delivery of criminals, fugitives from justice, in certain cases, concluded between the United States on the one part and Prussia and other States of Germany on the other part, the sixteenth day of June, one thousand eight hundred and fifty-two, is hereby extended to all the States of the North German Confederation."

This completes the list of extradition treaties now in force between the United States and foreign countries. It will be seen that almost the whole civilized world is covered by these treaties. It will be observed that these conventions grow in the number of crimes made extraditable, and in the elaboration of details as they proceed in point of time. The uniformity of expression and stipulation also shows how strongly this Government has impressed its personality on all these compacts, and how potent has been its influence upon representatives of foreign Governments in their negotiation.

UNITED STATES EXTRADITION LAWS.

The United States Congress has enacted laws supplementing the existing extradition treaties, and providing for carrying out their provisions. This legislation will be found in the Revised Statutes of the United States from Section 5270 to 5280 inclusive, and a special act of Aug. 3, 1882 (*22 U. S. Stat. at Large, 215*). This legislation covers International and Inter-State extradition as well as that of deserting seamen.

The laws relating to Inter-State extradition have already been given in the proper place. The laws relating to Interna-

tional extradition are divided into two classes: 1. Those relating to such extradition *from* the United States. 2. Those relating to the extradition *to* the United States. We will only take space to briefly summarize these laws. Those desiring to give them a careful study will find the full text in the Revised Statutes of the United States.

#### EXTRADITION FROM THE UNITED STATES.

1. *Examining Magistrates, Sec. 5270.*—If there is an extradition treaty, any justice of the Supreme Court, circuit judge, district judge, commissioner authorized by any court of the United States, or a judge of a court of record of general jurisdiction of any State, may, upon complaint, made under oath, charging any person found within the limits of any State, district or territory, with having committed within the jurisdiction of any such foreign Government any of the crimes provided for by such treaty, issue his warrant for the apprehension of the person so charged, that he may be brought before such justice, judge, etc., to hear the evidence of criminality. If he deems the evidence sufficient according to the provisions of the treaty, he shall certify the same, with a copy of the evidence taken, to the Secretary of State, that a warrant may issue upon the requisition of the proper authorities of such foreign Government for the surrender of such person according to the treaty; and he shall issue his warrant for the commitment of the person to the proper jail, to remain until such surrender shall be made.

2. *Documentary Proof, Sec. 5271.* In the hearing provided for above, any depositions, warrants or other papers offered in evidence, shall be admitted if they shall be properly and legally authenticated so as to entitle them to be received as evidence of the criminality of the person so apprehended, by the tribunals of the foreign country from which the accused shall have escaped, and copies of such documents shall, if authen-

ticated according to the laws of the country making the demand, be received as evidence; the certificate of the principal diplomatic or consular officer of the United States, resident in such foreign country, shall be proof that the authentication is in proper form.

3. *Executive Delivery, Sec. 5272.* The Secretary of State makes the delivery to such person as shall be authorized by the foreign Government to receive him; and the agent shall hold him in custody and take him to the territory of such foreign Government. If the prisoner escape, it shall be lawful to retake him in the same manner, as any person accused of any crime against the laws in force in that part of the United States to which he shall escape, may be retaken on an escape.

4. *Limitation of Time, Sec. 5273.* Any person committed as before provided, to await extradition papers, may be discharged after two calendar months over and above the time actually required to convey the prisoner from the jail, by the readiest way, out of the United States. The prisoner must make application to any State or United States judge and submit proof that reasonable notice has been given the Secretary of State that such application would be made. If sufficient cause is not shown to such judge why such discharge should not be made he may discharge him from custody.

5. *Application of the Laws, Sec. 5274.* These laws continue in force during the existence of any treaty of extradition with any foreign Government and no longer.

#### EXTRADITION TO THE UNITED STATES.

6. *Protection of the Fugitive, Sec. 5275.* When an agent of the United States receives a fugitive from a foreign Government under a treaty, the President shall have power to provide for his transportation, safe-keeping and security against lawless violence, until the final conclusion of his trial and for a reasonable time thereafter, and may employ such portion of the

land or naval forces of the United States, or of the militia, as may be necessary for such purpose.

7. *Powers of the Agent, Sec. 5276.* The duly appointed agent of the United States has all the powers of a Marshal of the United States.

8. *Penalty for Interference, Sec. 5277.* Any person who knowingly and willfully obstructs, resists or opposes such agent in the execution of his duties, or who rescues or attempts to rescue such prisoner, whether in the custody of the agent or of any officer or person to whom his custody has lawfully been committed, shall be punishable by a fine of not more than one thousand dollars, and by imprisonment for not more than one year.

9. *Act of August 3, 1882.* This act supplements the foregoing provisions of the Revised Statutes and provides as follows:

(1.) *Extradition Practice.* (Sec. 1.) That all hearings in cases of extradition under treaty stipulation shall be held on land, publicly, and in a room or office easily accessible to the public.

(2.) *Commissioners' Fees.* (Sec. 2.) The following fees are allowed and no other:

(a.) For administering an oath, ten cents.

(b.) For taking an acknowledgment, twenty-five cents.

(c.) For taking and certifying depositions to file, twenty cents for each folio.

(d.) For each copy of the same, furnished to a party on request, ten cents for each folio.

(e.) For issuing any warrant or writ, and for any other service, the same compensation as is allowed clerks for like services.

(f.) For issuing any warrant under the treaty of August 9, 1842, with Great Britain, against any person charged with any crime set forth in said treaty, two dollars.



(g.) For issuing any warrant under the treaty with France, November 9, 1843, two dollars.

(h.) For hearing and deciding the case of any person charged with any crime or offense, five dollars a day for the time necessarily employed.

(3) *Subpœna of Witnesses.* (Sec. 3.) If upon the hearing the person charged shall make affidavit that there are witnesses whose evidence is material to his defense, that he can not safely go into trial without them, stating what he expects to prove by each, and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the judge may order them subpoenaed and the cost incurred by so doing shall be paid in the same manner that similar fees are paid in the case of witnesses for the United States.

(4.) *Witness Fees.* (Sec. 4.) All costs of every nature attending extradition, including the commissioner's fees, shall be certified by the judge or commissioner to the Secretary of State of the United States and shall be paid out of the appropriation to defray the expenses of the judiciary; and the Secretary of State shall cause the amount of said fees and costs to be reimbursed to the United States by the foreign Government demanding the extradition.

(5.) *Evidence.* (Sec. 5.) Depositions, warrants and other papers, or copies thereof, shall be admitted as evidence on the hearing if they are authenticated in such manner as to entitle them to be received for similar purposes in the tribunals of the foreign country from which the accused escaped, and the certificate of the principal diplomatic or consular officer of the United States, resident in such foreign country, shall be proof that such documents or copies are authenticated in the manner required by this act.

Section 5280 provides for the extradition of deserting seamen.

Extradition from Canada to the United States is made under the treaty of 1842 with Great Britain. A new treaty is now in progress of negotiation which will largely increase the number of offenses extraditable between this country and Canada, and that country will then no longer be the common refuge for swindlers and embezzlers from the States, a change which ought to be agreeable and profitable to both countries.

#### THE ENGLISH EXTRADITION ACT, 1870.

Perhaps four-fifths of the extradition cases that occur arise under the treaty of 1842 with Great Britain. As it frequently happens that criminals flee from this country to England or some of her dependencies it is important to know the formalities of the English law that must be complied with. For the information of those who may have to deal with such cases we give the principal points of that law:

Section 3. The following restrictions shall be observed with respect to the surrender of fugitive criminals:

(1.) Fugitives charged with political offenses will not be surrendered, or if the fugitive prove to the satisfaction of the judge on the hearing, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for such offense, he will not be surrendered.

(2.) A fugitive criminal shall not be delivered to a foreign State unless provision is made by the law of that State, or by arrangement, that he shall not be detained or tried in that State for any offense committed prior to his surrender, other than the extradition crime, until he has been restored or had an opportunity of returning to Her Majesty's dominions.

(3.) A fugitive who has been accused of some crime in Her Majesty's dominions other than the crime for which his extradition is asked, or is undergoing sentence under conviction, shall not be surrendered until he is discharged.

(4.) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

Section 7. A requisition shall be made to a Secretary of State by a diplomatic representative of the foreign State. A Secretary of State may order a police magistrate to issue a warrant for the arrest of the fugitive, or if he think the offense is of a political character he may refuse, and may at any time order the person accused or convicted of such offense to be discharged from custody.

Section 10. The evidence produced of the fugitive's guilt must be as much as would suffice to justify his commitment for trial if the crime of which he is accused had been committed in England, otherwise the magistrate shall discharge him.

Section 14. Depositions taken in a foreign country, and copies of the same, or judicial documents stating the fact of conviction may, if duly authenticated, be received in evidence.

Section 15. These depositions and other documents shall be deemed duly authenticated, if authenticated in manner provided for the time being by law, or as follows: (1.) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign State where the same was issued; (2.) If the depositions or copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign State where the same were taken, to be the original depositions or statements or true copies thereof, as the case may require; (3.) If the judicial document stating the fact of conviction purports to be certified by a judge where the conviction took place; and *in every case* the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice; and all courts of justice shall take judicial notice of such official seal, and

shall admit the documents authenticated by it to be received in evidence without further proof.

Section 17. This act extends to every British possession, with the following modifications: (1.) The requisition for a person in a British possession may be made to the Governor thereof by any person recognized by him as a consul-general, consul, or vice-consul; (2.) No warrant of a Secretary of State shall in this case be required, the Governor being empowered to perform all acts vested in or authorized to be done by the magistrate and Secretary of State or either of them; (3.) Any prison in the British possession may be substituted for a prison in Middlesex; (4.) A judge of any court in the British possession, exercising the like powers as the Court of Queen's Bench in England, may exercise the power of discharging the criminal when not conveyed within two months out of the British possession.

Section 18. If the British possession by its legislature has passed any law or ordinance either before or after the passage of this act, providing for the surrender of fugitives, Her Majesty may by the Order in Council suspend the operation of this act or any part thereof within such foreign possession so long as said law or ordinance remains in force and no longer; or direct that such law or ordinance, or any part thereof, shall have effect in such possession, with or without modifications, as if it were a part of this act.

Section 19. When a fugitive is extradited to England from a foreign country he shall not, until he has been restored or had opportunity to return to such foreign State, be tried or triable for any offense committed prior to the surrender in any of Her Majesty's dominions, other than such crimes as may be proved by the facts on which the surrender is grounded.

Section 24. The testimony of any witness may be obtained in relation to any criminal matter pending in any foreign



tribunal in the same manner as it is obtained in civil matters, as provided by law.

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This brings to a close our remarks upon the subject of extradition. The subject, in both inter-State and international features, is one but illy understood even by a large majority of the practitioners at the bar, and we judge not at all by the people at large. Still it is a subject of growing importance, and one which will demand constantly increasing attention and study as the facilities for foreign travel improve. If we have been able to shed any light upon the subject in these few pages, or to point out the way to any benighted officer, detective or agent, it will be a source of gratification to us and some assurance that we have not written in vain.

## CHAPTER V.

### COUNTERFEITING.

ONE of the most extensively followed branches of crime is that of counterfeiting, embracing both the coin and paper currency of the country. It is necessarily carried on with great secrecy, as the Secret Service Officers of the Government are extremely vigilant and alert, and with their large experience and keen scent for crime, frequently follow a very slight clew to its legitimate source with as much precision and confidence as a hound would scent the fox.

We shall not undertake to tell in this work how to detect and capture counterfeiters, but we will give some information in regard to detecting counterfeit money that will be of vast value and importance to every merchant, business man and farmer in the country. We will give descriptions of all the principal counterfeit National bank notes now in circulation, also counterfeit United States notes, so that by a little study, and the application of a few principles, no one need ever be defrauded or imposed upon with counterfeit money.

#### NATIONAL BANK NOTES.

National bank notes are divided into three classes: 1. The old series, bearing the small star-pointed seal and signed by F. E. Spinner, as Treasurer. 2. The series of 1875 with a scalloped seal, signed by John C. New, A. U. Wyman or Jas. Gilfillan, as Treasurer. 3. The series of 1882, with large chocolate colored seal and signed by Jas. Gilfillan or A. U. Wyman, as Treasurer.

The old series with pointed seal are all printed on plain bank note paper. The series of 1875 and 1882 are printed on fibre

paper. The charter number is printed in large figures on each end of the note in the series of 1875, and in the series of 1882 it is printed in large figures on the face of the note and also in small figures around the face of the note; on the back of the '82 series the charter number is printed in large figures in green panel in center of note. All notes have a check letter, either A, B, C, or D. This letter is printed in two places on the note, at top and bottom, and at diagonally opposite corners. A few banks have received notes with check letters E, F, G, H, but none of these have been counterfeited. The following rules then, if followed, will facilitate the work of detecting counterfeit National bank notes:

1. All National bank notes bearing check letters E, F, G, or H, are good.
2. All National bank notes signed by a different Register and Treasurer from those in the following list are good.
3. All National bank notes signed by the same Register and Treasurer as those in the following list are good, *provided* the check letter is different.
4. All National bank notes issued by banks not found in the following list are good.

If a note is found bearing the same signatures of Register and Treasurer, and the same check letter and issued by the same bank as one in the following list then it may or may not be counterfeit, and to aid in determining that fact is the object of the insertion of these few pages.

One experienced in handling money is usually attracted to a counterfeit by its general appearance, or by its "feel" as it passes through his hands. The only way to learn this is to study good money and compare it with bad. The paper used by the Government has never been exactly imitated, although in recent years some excellent attempts have been made. The ink used by the Government is manufactured by a secret pro-

cess and has a peculiar gloss which has never been successfully imitated. This is especially noticeable in the number of the note, which, when the bill is good, shows its peculiar glistening appearance until the note is worn out.

Notes counterfeited by the photographic process are easily detected, as it is impossible to reproduce the original colors of the notes. The coloring must be done by hand and it results in a bungling appearance to the note which is observable at once. In this class of work the numbers can not be relied upon as a means of detection.

### ONES.

BOSTON, MASS.                      A.—Series of 1875.                      NATIONAL EAGLE.  
J. ALLISON, Register.              Photographic.      A. U. WYMAN, Treasurer.

Signed R. S. Covell, President, Wm. G. Brooks, Cashier;  
Treasury No. 211,944, Bank No. 3,640.

### TWOS.

KINDERHOOK, N. Y.              A.—Old Series.                      NATIONAL UNION.  
S. B. COLBY, Register.              F. E. SPINNER, Treasurer.

In words "Will pay to bearer" on genuine note, the W begins with flourish, making angle with first line of the W. On counterfeit the W begins with an oval flourish.

LINDERPARK, N. Y.              A.                                      NATIONAL UNION.

Entirely fraudulent. There never was any such bank.

NEWPORT, R. I.                      A.—Old Series.                      NATIONAL BANK OF R. I.  
S. B. COLBY, Register.              F. E. SPINNER, Treasurer.

Coarsely engraved; seal and numbers bad. Signed W. A. Clark, President, J. P. Peckham, Cashier.

NEW YORK, N. Y.                      A.—Old Series.                      NINTH NATIONAL.  
S. B. COLBY, Register.              F. E. SPINNER, Treasurer.

Title on genuine reads "The Ninth National Bank of the



City of New York." The word "the" is omitted in the counterfeit, reading "of City of New York."

NEW YORK, N. Y.	A.—Old Series.	MARINE NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Title on genuine reads "Marine National Bank of *the* City of New York." On counterfeit the word "the" is omitted.

NEW YORK, N. Y.	A.—Old Series.	MARKET NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Same description as National Union Bank, Kinderhook, N. Y.

NEW YORK, N. Y.	A.—Old Series.	ST. NICHOLAS NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Same description as National Union Bank, Kinderhook, N. Y.

PEEKSKILL, N. Y.	A.—Old Series.	WESTCHESTER CO. NAT'L.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Same description as National Union Bank, Kinderhook, N. Y.

### FIVES.

AMSTERDAM, N. Y.	B.—Old Series.	MANUFACTURERS' NAT'L.
JOHN ALLISON, Register.		F. E. SPINNER, Treasurer.

Coarsely engraved; but appearance fair. The counterfeit bears a flourish directly under the letters Trea of the word Treasurer and over the printed signature of Allison, that the genuine does not have.

AURORA, ILL.	A.—Old Series.	FIRST NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

All notes on this bank signed by S. B. Colby are counterfeit. The genuine are signed by L. E. Chittenden as Register.

BOSTON, MASS.                      C.—Series of 1875.    BOYLESTON NATIONAL.  
     JOHN ALLISON, Register.                      JNO. C. NEW, Treasurer.

Counterfeit bears signature of J. T. Bailey, Pres't, and D. S. Waterman, Cashier. A very poor counterfeit; done by the photographic process.

BOSTON, MASS.                      C.—Series of 1875.    GLOBE NATIONAL.  
     JOHN ALLISON, Register.                      JNO. C. NEW, Treasurer.

W. B. Stevens, Pres't, C. B. Sprague, Cashier. A bad photographic note, green on back, looking smeary.

BOSTON, MASS.                      B.—Series of 1875.    PACIFIC NATIONAL.  
     JOHN ALLISON, Register.                      JAS. GILFILLAN, Treasurer.

A poor photographic note. Bank no longer in existence and very few genuine notes out.

CANTON, ILL.                      A.—Old Series.                      FIRST NATIONAL.  
     S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

All notes on this bank signed by S. B. Colby are counterfeit. Genuine signed by L. E. Chittenden.

CECIL, ILL.                      A.                      FIRST NATIONAL.

No such bank ever existed.

CHICAGO, ILL.                      A.—Old Series.                      FIRST NATIONAL.  
     S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

All notes signed by Colby counterfeit.

CHICAGO, ILL.                      A.—Old Series.                      CENTRAL NATIONAL.  
     S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Same as First National of Chicago.

CHICAGO, ILL.                      A.—Old Series.                      GERMAN NATIONAL.  
     S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Same as First National of Chicago.

CHICAGO, ILL.                      A.—Old Series.    MERCHANTS' NATIONAL.  
     S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Made from same plate as Traders' National Bank, Chicago, described below.

CHICAGO, ILL.	A.—Old Series.	TRADERS' NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

The infallible rule for this note and for all counterfeit \$5 Illinois notes is as follows: On a genuine note the perpendicular line on back of note at right end, when extended, strikes a figure 5 in the margin; in the counterfeit this line strikes between the marginal figures. All Illinois \$5 counterfeits are printed from this plate.

CHICAGO, ILL.	A.—Old Series.	UNION NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

The date is the key. Genuine dated Jan. '14, 1865, counterfeit May 10, 1865.

DEDHAM, MASS.	B.—Series of 1875.	DEDHAM NATIONAL.
JOHN ALLISON, Register.		JNO. C. NEW, Treasurer.

A poor photographic counterfeit, signed by Ezra W. Taft, Pres't, L. H. Kingsbury, Cashier. The green tint is entirely omitted at top of back where words "National Currency" are printed, and is poorly put on elsewhere.

FALL RIVER, MASS.	C.—Series of 1875.	POCASSET NATIONAL.
JOHN ALLISON, Register.		A. U. WYMAN, Treasurer.

A photographic note, Bank No. 762, Treasury No. B974,-157.

GALENA, ILL.	A.	FIRST NATIONAL.
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Entirely fraudulent. There never was any such bank.

HANOVER, PA.	D.—Old Series.	FIRST NATIONAL.
L. E. CHITTENDEN, Register.		F. E. SPINNER, Treasurer.

The date is the key. Those bearing the words "Act approved June 3, 1864," are counterfeit. Genuine have Feb. 25, 1863.

JACKSON, MICH.                      D.—Old Series.                      PEOPLE'S NATIONAL.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

A poorly executed lithograph. Bank Note Company's imprint on lower border is very bad.

JEWETT CITY, CONN.                      B.—Old Series.                      JEWETT CITY NATIONAL.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Badly done, looking like a wood-cut. Bank dead, and few genuine notes out.

LEICESTER, MASS.                      C.—Series of 1875.                      LEICESTER NATIONAL.  
JOHN ALLISON, Register.                      JNO. C. NEW, Treasurer.

Poor photographic note, easily detected. Treasury No. D700,578. Bank No. 2,203.

MILWAUKEE, WIS.                      B.—Series of 1882.                      FIRST NATIONAL.  
B. K. BRUCE, Register.                      JAMES GILFILLAN, Treasurer.

A rather poor photographic counterfeit, which ought not to deceive. Has vignette of Garfield. Bank No. 269. Treasury A347,146. Charter No. 2,715. Scalloped seal, pale pink; border on back, brown; center of back, light olive; lathe-work, slate color and green.

MONTPELIER, VT.                      A.—Series of 1875.                      MONTPELIER NATIONAL.  
JOHN ALLISON, Register.                      JNO. C. NEW, Treasurer.

A photographic note; Bank No. 1,166; Treasury No. B137,701. Charter No. 857.

NEW BEDFORD, MASS.                      B.—Series of 1875.                      FIRST NATIONAL.

Poor photographic counterfeit, of which only one note has ever been seen. Treas. No. B796,654. Bank No. 261.

NEW BEDFORD, MASS.                      C.—Old Series.                      MERCHANTS' NATIONAL.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

A very fine and dangerous counterfeit. The thigh of Columbus on the back has a broken or clubbed appearance, while in the genuine it is natural and perfect.



**NORTHAMPTON, MASS.**    **C.**—Old Series.    **FIRST NATIONAL.**  
     S. B. COLBY, Register.    F. E. SPINNER, Treasurer.

All notes on this bank signed S. B. Colby, Register, are counterfeit.

**NORWALK, CONN.**    **A.**—Series of 1882.    **CENT. NAT'L BANK OF**  
     B. K. BRUCE, Register.    A. U. WYMAN, Treasurer.

This is a very defective counterfeit and should not deceive. The paper is bad, not being fibre paper, or having the parallel colored silk threads. The charter number is 404 instead of 2342, as it should be. It is printed partly from type and partly from wood-cut.

**PAWLING, N. Y.**    **A.**—Old Series.    **THE NATIONAL BANK OF**  
     S. B. COLBY, Register.    F. E. SPINNER, Treasurer.

Position of check letter A in upper left hand corner is the key. In counterfeit it nearly touches the yard-arm; in genuine it is midway between yard-arm and border of note.

**PAXTON, ILL.**    **A.**—Old Series.    **FIRST NATIONAL.**  
     S. B. COLBY, Register.    F. E. SPINNER, Treasurer.

All notes on this bank, signed by S. B. Colby, are counterfeit.

**PERU, ILL.**    **A.**—Old Series.    **FIRST NATIONAL.**  
     S. B. COLBY, Register.    F. E. SPINNER, Treasurer.

All notes on this bank, signed by S. B. Colby, are counterfeit.

**ROME, N. Y.**    **B.**—Old Series.    **FORT STANWIX NATIONAL.**  
     S. B. COLBY, Register.    F. E. SPINNER, Treasurer.

Engraving of vignettes is coarse and shading of large letters is bad. Quite a dangerous counterfeit.

**SOUTHBRIDGE, MASS.**    **B.**—Series of 1875.    **SOUTHBRIDGE NAT'L.**  
     JOHN ALLISON, Register.    JOHN C. NEW, Treasurer.

A photographic counterfeit, not dangerous. Bank No. 409; Charter No. 934; Treasury No. 532,804.

ST JOHNSBURY, VT.      C.—Series of 1875.      FIRST NATIONAL.  
JOHN ALLISON, Register.      JOHN C. NEW, Treasurer.

A poorly executed photographic counterfeit. They have appeared in several different numbers.

TAMAQUA, PA.      B.—Old Series.      FIRST NATIONAL.  
S. B. COLBY, Register.      F. E. SPINNER, Treasurer.

Three keys to this note: 1. Charter No., which is 1,219; all notes bearing any other number are counterfeit. 2. The word *owing* in the upper right of back is spelled *ownig*. 3. The word *Thousand* in lower right of note is spelled *Thousaud*.

TROY, N. Y.      A.—Old Series.      NATIONAL STATE.  
JOHN ALLISON, Register.      JOHN C. NEW, Treasurer.

Notes on this bank with old series seal and John C. New's name are counterfeit. Also on the counterfeit, the word *Treasury* under the Register's name is printed *Treasury*.

VIRGINIA, ILL.      A.—Old Series.      FARMERS' NATIONAL.  
S. B. COLBY, Register.      F. E. SPINNER, Treasurer.

Counterfeits are dated May 10, 1865. Genuine Sept. 1, 1865.

WESTFIELD, MASS.      C. & D.—Old Series.      HAMPDEN NATIONAL.  
S. B. COLBY, Register.      F. E. SPINNER, Treasurer.

The expression of Columbus is not good, and in the ship on left end of note the connection between the upright standard and the rail in the bulwark is omitted.

## TENS.

ALBANY, N. Y.      A.—Old Series.      ALBANY CITY NATIONAL.  
S. B. COLBY, Register.      F. E. SPINNER, Treasurer.

Lathe-work, numbers and seal all bad.

AUBURN, N. Y.                      A.—Old Series.    AUBURN CITY NATIONAL.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Lathe-work, numbers and seal all bad.

BUFFALO, N. Y.                      A.—Old Series.    FARMERS' & MANUF. NAT.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

The plate for this note was changed from the Farmers' and Manufacturers' National Bank, of Poughkeepsie, N. Y., which see below. There is no such bank at Buffalo.

CINCINNATI, OHIO.                      C.—Series of 1882.    THIRD NATIONAL.  
B. K. BRUCE, Register.                      JAS. GILFILLAN, Treasurer.

A very bad note, on stiff and greasy paper, without fibre or parallel silk threads. Engraving coarse. At upper left corner, in word "printed," the N is engraved wrong side up.

LAFAYETTE, IND.                      A.—Old Series.    LAFAYETTE NATIONAL.  
JOHN ALLISON, Register.                      F. E. SPINNER, Treasurer.

Counterfeits bear Bank No. 1,496, Treasury No. 165,167.

LOCKPORT, N. Y.                      A.—Old Series.    FIRST NATIONAL.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Counterfeits are signed S. B. Colby, Register.

MUNCIE, IND.                      A.—Old Series.    MUNCIE NATIONAL.  
JOHN ALLISON, Register.                      F. E. SPINNER, Treasurer.

Counterfeits bear Bank No. 1,496, Treasury No. 165,167.

NEWBURGH, N. Y.                      A.—Old Series.    HIGHLAND NATIONAL.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Very bad, seal, lathe-work and numbering all quite defective.

NEW YORK, N. Y.                      A.—Old Series.    FIRST NATIONAL.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Counterfeits are signed S. B. Colby.

NEW YORK, N. Y.                   A.—Old Series.                   AMERICAN NATIONAL.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.

Counterfeits are dated July 1, 1865, genuine Jan. 26, 1865.

NEW YORK, N. Y.                   A.—Old Series.                   CROTON NATIONAL.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.

Bank dead and few genuine notes out.

NEW YORK, N. Y.                   A.—Old Series.                   MARINE NATIONAL.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.

"Marine National Bank of *the City of New York*" is the title on genuine; in counterfeits the words "*the City of*" are left out.

NEW YORK, N. Y.                   A.—Old Series.                   MARKET NATIONAL.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.

Counterfeits bear date July 1, 1865; genuine May 10, 1865.

NEW YORK, N. Y.                   A.—Old Series.                   MECHANICS' NATIONAL.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.

"Mechanics' National Bank of *the City of New York*" is title on genuine notes; on counterfeits the word *the* is omitted.

NEW YORK, N. Y.                   A.—Old Series.                   MERCHANTS' NATIONAL.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.

Bank officers' signatures are printed on the counterfeit; they should be written.

NEW YORK, N. Y.                   A.—Old Series.                   NAT. BANK OF COMMERCE.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.

Counterfeits bear date July 1, 1865; genuine Jan. 19, 1865.

NEW YORK, N. Y.                   A.—Old Series.                   NAT. BANK OF STATE N. Y.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.

Lathe-work, seal and numbering all poor.

NEW YORK, N. Y.                   A.—Old Series.                   UNION NATIONAL.  
S. B. COLBY, Register.                   F. E. SPINNER, Treasurer.



Counterfeits bear date July 1, 1865; genuine July 20, 1865.

PHILADELPHIA, PA.	B.—Old Series.	FIRST NATIONAL.
L. E. CHITTENDEN, Register.	F. E. SPINNER, Treasurer.	

Counterfeits bear date Feb. 20, 1864; genuine Nov. 2, 1863.

PHILADELPHIA, PA.	B.—Old Series.	THIRD NATIONAL.
L. E. CHITTENDEN, Register.	F. E. SPINNER, Treasurer.	

The word Currency is the key; as found in the upper right hand end of bill in counterfeit, it is printed *Curreny*.

POUGHKEEPSIE, N. Y.	A.—Old Series.	FIRST NATIONAL.
S. B. COLBY, Register.	F. E. SPINNER, Treasurer.	

Counterfeits are signed S. B. Colby.

POUGHKEEPSIE, N. Y.	A.—Old Series.	CITY NATIONAL.
S. B. COLBY, Register.	F. E. SPINNER, Treasurer.	

Numbers, seal and lathe-work all defective.

POUGHKEEPSIE, N. Y.	A.—Old Series.	FARMERS' & MANUF. NAT.
S. B. COLBY, Register.	F. E. SPINNER, Treasurer.	

The letters P and O join in the word Poughkeepsie in counterfeit; in genuine they do not.

RED HOOK, N. Y.	A.—Old Series.	FIRST NATIONAL.
S. B. COLBY, Register.	F. E. SPINNER, Treasurer.	

Counterfeits bear date Feb. 20, 1865; genuine Jan. 26, 1865.

RICHMOND, IND.	A.—Old Series.	RICHMOND NATIONAL.
JOHN ALLISON, Register.	F. E. SPINNER, Treasurer.	

Counterfeits bear these numbers: Bank, 1,496; Treasury, 165,167.

ROCHESTER, N. Y.	A.—Old Series.	FLOUR CITY NATIONAL.
S. B. COLBY, Register.	F. E. SPINNER, Treasurer.	

Counterfeits bear date July 1, 1865; genuine Aug. 1, 1865.

ROME, N. Y.	A.—Old Series.	CENTRAL NATIONAL.
S. B. COLBY, Register.	F. E. SPINNER, Treasurer.	

Counterfeits bear date May 12, 1865; genuine Aug. 1, 1865.

SYRACUSE, N. Y.	A.—Old Series.	SYRACUSE NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Seal, numbering and lathe-work all defective.

TROY, N. Y.	A.—Old Series.	MUTUAL NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Eagle's wing touches date 1865, on counterfeit; it should not.

VEVAY, IND.	A.—Old Series.	FIRST NATIONAL.
JOHN ALLISON, Register.		F. E. SPINNER, Treasurer.

Counterfeits have Bank No. 1,496; Treasury No. 165,167.

WATERFORD, N. Y.	A.—Old Series.	SARATOGA CO. NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Counterfeits have Bank No. 1,048; Treasury No. 810,516.  
Few genuine notes out; bank in voluntary liquidation.

WATKINS, N. Y.	A.—Old Series.	WATKINS NATIONAL.
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Counterfeits bear date Aug. 1, 1865; genuine May 15, 1865.  
Bank now out of existence.

## TWENTIES.

INDIANAPOLIS, IND	A.—Old Series.	FIRST NATIONAL.
L. E. CHITTENDEN, Register.		F. E. SPINNER, Treasurer.

Butt of gun in vignett of counterfeit touches border of note; it should not.

MOHAWK, N. Y.	A.—Series of 1882.	NATIONAL VALLEY.
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This is a photographic note, printed from a glass plate, signed Eli Fox, President, H. D. Alexander, Cashier; Charter No. 1,130. No attempt to imitate fibre paper. Counterfeiters and plates captured and not many notes issued.

NEW YORK, N. Y.                    **B.**—Old Series.                    FIRST NATIONAL.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Counterfeits bear date July 19, 1865; genuine Nov. 2, 1863.

NEW YORK, N. Y.                    **B.**—Old Series.                    MARKET NATIONAL.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Counterfeits bear name of L. E. Chittenden, Register; genuine, S. B. Colby.

NEW YORK, N. Y.                    **B.**—Old Series.                    MERCHANTS' NATIONAL.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Counterfeits bear name of L. E. Chittenden, Register; genuine, S. B. Colby.

NEW YORK, N. Y.                    **B.**—Old Series.                    NAT. BANK OF COMMERCE.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Counterfeits bear name of L. E. Chittenden, Register; genuine, S. B. Colby.

NEW YORK, N. Y.                    **B.**—Old Series.                    NAT. SHOE & LEATHER.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Counterfeits bear name of L. E. Chittenden, Register; genuine, S. B. Colby.

NEW YORK, N. Y.                    **B.**—Old Series.                    TRADESMEN'S NATIONAL.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Counterfeits bear name of L. E. Chittenden, Register; genuine, S. B. Colby.

PHILADELPHIA, PA.                    **A.**—Old Series.                    FOURTH NATIONAL.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Bank out of existence; few genuine notes out.

PORTLAND, CONN.                    **A.**—Old Series.                    FIRST NATIONAL.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Butt of gun in vignette of counterfeit touches border of note; also in vignette on left of note, counterfeit bears 1715; genuine, 1775.

UTICA, N. Y.	<b>B.—Old Series.</b>	<b>CITY NATIONAL.</b>
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

No such bank ever existed.

UTICA, N. Y.	<b>B.—Old Series.</b>	<b>ONEIDA NATIONAL.</b>
L. E. CHITTENDEN, Register.		F. E. SPINNER, Treasurer.

Counterfeit notes bear name of L. E. Chittenden; genuine, S. B. Colby.

### FIFTIES.

BUFFALO, N. Y.	<b>A.—Old Series.</b>	<b>THIRD NATIONAL.</b>
L. E. CHITTENDEN, Register.		F. E. SPINNER, Treasurer.

Counterfeits bear name of L. E. Chittenden, Register; genuine, S. B. Colby.

NEW YORK, N. Y.	<b>A.—Old Series.</b>	<b>CENTRAL NATIONAL.</b>
L. E. CHITTENDEN, Register.		F. E. SPINNER, Treasurer.

Only genuine charter number is 376. If notes bear L. E. Chittenden's name as Register and also these words, "Printed at the Bureau of Engraving and Printing, U. S. Treasury Department," in upper left hand corner, they are counterfeit.

NEW YORK, N. Y.	<b>A. C.—Old Series.</b>	<b>MECHANICS' NATIONAL.</b>
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

This note was altered from another counterfeit note on Tradesmens' National Bank of New York City, and bears the charter number of that bank, 905. All genuine notes on this bank bear the number 1250. Very few of these notes out.

NEW YORK, N. Y.	<b>A.—Old Series.</b>	<b>METROPOLITAN NATIONAL.</b>
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

Another note same as last, bearing the charter number 905. The genuine number of this bank is 1121.

NEW YORK, N. Y.	<b>A. C.—Old Series.</b>	<b>NAT. BANK OF COMMERCE.</b>
S. B. COLBY, Register.		F. E. SPINNER, Treasurer.

A note altered from a counterfeit on National Broadway



Bank, New York City, bearing the date of that bank, Jan. 10, 1865. Proper charter number of this bank is 733; all others are counterfeit.

NEW YORK, N. Y.                    **A. C.**—Old Series.            NATIONAL BROADWAY.  
S. B. COLBY, Register.                    F. E. SPINNER, Treasurer.

Two flourishes appear in the genuine note that are omitted in the counterfeit; one above and one below the words *with the*, in the line "*Deposited with the U. S. Treasurer at Washington.*" The hand of the vignette of victory is without thumb or fingers in the counterfeit, although they show plainly in the genuine.

NEW YORK, N. Y.                    **A. D.**—Old Series.            TRADESMEN'S NATIONAL  
S. B. COLBY, Register.                    F. E. SPINNER, Treasurer.

The bandage does not cover the eyes of Justice in the counterfeit as it does in the genuine; and other defects, same as National Broadway.

NEW YORK, N. Y.                    **A.**—Old Series.                    UNION NATIONAL.  
L. E. CHITTENDEN, Register.                    F. E. SPINNER, Treasurer.

Counterfeit notes bear the name of L. E. Chittenden, Register, and the date April 15, 1864; genuine have S. B. Colby's name and July 20, 1865.

## ONE HUNDREDS.

BALTIMORE, MD.                    **A.**—Old Series.                    NATIONAL EXCHANGE.  
S. B. COLBY, Register.                    F. E. SPINNER, Treasurer.

The distance between the edge of the wing of Liberty and the shading of the letter C, in upper right hand corner of note, is nearly twice as great in the genuine as in the counterfeit, the proper distance being about  $\frac{1}{16}$  inch. In the vignette in the counterfeit the water drops from only one side of the oar: in the genuine, from both sides. The wing of the figure of

Liberty is much nearer the base of the check letter A in the counterfeit than in the genuine.

BOSTON, MASS.                      A.—Old Series.                      FIRST NATIONAL.  
L. E. CHITTENDEN, Register.                      F. E. SPINNER, Treasurer.

Same defect in water dropping from oar as above; also the crossing of the letter T is omitted in the word *maintain*, at right end of counterfeit note.

BOSTON, MASS.                      A.—Old Series.                      NATIONAL REVERE.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Samuel H. Walley, Pres't; H. Blasdale, Cashier. Description same as National Exchange of Baltimore.

CINCINNATI, OHIO.                      A.—Old Series.                      OHIO NATIONAL.  
L. E. CHITTENDEN, Register.                      F. E. SPINNER, Treasurer.

Same description as First National, of Boston, above.

NEW BEDFORD, MASS.                      A.—Old Series.                      MERCHANTS' NATIONAL.  
S. B. COLBY, Register.                      F. E. SPINNER, Treasurer.

Signed by C. R. Tucker, President; P. C. Howland, Cashier. Description same as National Exchange, of Baltimore, above.

NEW YORK, N. Y.                      A.—Old Series.                      CENTRAL NATIONAL.  
L. E. CHITTENDEN, Register.                      F. E. SPINNER, Treasurer.

H. A. Smyth, Pres't; W. H. Foster, Cashier. Same as First National of Boston, above.

PITTSBURG, PA.                      A.                      PITTSBURG NAT. B'K OF COMMERCE.  
JOHN ALLISON, Register. Series 1875. JOHN C. NEW, Treasurer.

Perhaps the most dangerous counterfeit in existence. Fibre paper, much like the genuine, is used. The seal and the numbering are very fine. In the counterfeit the face of the sailor in bow of boat resembles a skull. On the counterfeit a line drawn closely under the words, "*with the U. S. Treasurer at Washington*," and extended, strikes the chin of

the figure of Liberty; in the genuine it strikes the lower lip. For other defects see description of National Exchange, of Baltimore, above.

PITTSFIELD, MASS.      A.—Old Series.      PITTSFIELD NATIONAL.  
S. B. COLBY, Register.      F. E. SPINNER, Treasurer.

John V. Barker, Pres't; E. S. Francis, Cashier. Description same as National Exchange, of Baltimore, above.

WILKESBARRE PA.      A.—Old Series      SECOND NATIONAL.  
L. E. CHITTENDEN, Register.      F. E. SPINNER, Treasurer.

Abram Nesbitt, Vice-Pres't; E. A. Spalding, Cashier. Description same as National Exchange, of Baltimore.

### UNITED STATES NOTES.

The United States Government has a peculiar system of printing and numbering notes, which, if understood and applied, will enable any one to detect about three-fourths of the counterfeits in existence. The notes are printed in sheets of four and afterward cut apart. Each note on the sheet gets one of the four check letters, A, B, C or D, beginning at the top and going regularly through, thus using all the check letters on each sheet. The check letter is placed in two places on each bill, in the upper and lower corner, diagonally opposite. The system of numbering used in connection with the check letter is quite unique. It is this: Every number which when divided by four leaves a remainder one, is given the check letter A. Those which, divided by four, give a remainder two, get the check letter B; if the remainder be three, the letter C is used; if the quotient is integral, no remainder, then the check letter D is used.

It can be laid down as an infallible rule that if the number of a United States note be divided by four with a result differ-

ent from that stated above it is counterfeit. Observe that this rule only applies to United States notes, not to National Bank notes or silver or gold certificates.

Of course some of the counterfeit notes are numbered and lettered in accordance with this rule and in that case this method of dividing by four would not show the fraud.

The following general points will also aid in detecting bad United States bills: The old issue of United States notes consisted of four series. They were all signed by L. E. Chittenden, Register; F. E. Spinner, Treasurer. The series of 1869 were all signed by John Allison, Register; F. E. Spinner, Treasurer. The series of 1875 were all signed by John Allison, Register, and by John C. New, A. U. Wyman or Jas. Gillan, as Treasurer. Many counterfeits have been issued on this series from the 1's to the 50's. Only two denominations, the 10's and 20's, of the series of 1878 have been counterfeited. Of the series of 1880, the 2's, 5's, 10's and 20's have been counterfeited. Gold certificates have not been counterfeited.

The Government began using fibre paper in 1869; previous to that time all United States notes were printed on plain bank note paper. Nearly all the old series were counterfeited, as there was little difficulty in imitating the paper. This fibre paper is known as the Wilcox patent and consists of a short blue fibre of bluish cast, distributed promiscuously all through the paper. Under the microscope the fibres look like coarse hairs, differing in length and shape, and having no systematic arrangement whatever. Later on, in 1878, another patent paper was adopted, known as the Crane patent. It consisted of two silk threads running lengthwise through the note.

With these general remarks, and the following particular descriptions, we believe any one with ordinary observation and a little study can detect any counterfeit United States note in existence.



## COUNTERFEIT UNITED STATES NOTES.

Act July 11, 1862.                      1's.—B. C. D.                      Dated Aug. 1, 1862.  
     L. E. CHITTENDEN, Register.                      F. E. SPINNER, Treasurer.

A bad counterfeit. Lathe-work, colors and number of note all poor. Portrait of Chase miserably engraved and the small *ones* in border badly blurred.

Act March 3, 1863.                      1's.—D.                      Series of 1875.  
     JOHN ALLISON, Register.                      A. U. WYMAN, Treasurer.

A novice would reject this note. Several words mis-spelled in panel of back. Portrait of Washington bad. Looks like a wood-cut.

Act March 3, 1862.                      2's.—B. C. D.                      Dated Aug. 1, 1862.  
     L. E. CHITTENDEN, Register.                      F. E. SPINNER, Treasurer.

Hamilton's head poorly engraved and engraving very bad all through. Imprint of Bank Note Company, on margin of back, imperfect.

Act March 3, 1863.                      2's.—D.                      Series of 1875.  
     JOHN ALLISON, Register.                      A. U. WYMAN, Treasurer.

So bad that it needs no description. Badly blurred and faded.

Act March 3, 1863.                      2's.—D.                      Series of 1880.  
     \*B. K. BRUCE, Register.                      A. U. WYMAN, Treasurer.

A slight examination would result in the rejection of this note. It is coarse and scratchy and full of errors, especially in spelling. Portrait of Jefferson has but one eye and the name is spelled Jeffrson.

Act Feb. 25, 1862.                      5's.—A.                      Series 90. Dated March 10, 1862.  
     L. E. CHITTENDEN, Register.                      F. E. SPINNER, Treasurer.

Numbering is poor and lathe-work indistinct, especially around "5," in upper right hand corner, where it can not be

traced. Statue of Liberty and head of Hamilton coarsely engraved.

Act Feb. 25, 1862. **5's.—A.** Series 114. Dated March 10, 1863.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

All counterfeits of this issue are dated March 10, 1863, while the genuine are dated March 10, 1862.

Act March 3, 1863. **5's.—A. D.** Series 70 & 77. Dated Mar. 10, 1863.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Statue of Liberty coarse; head of Hamilton good. Lathe-work around figure "5" can not be traced.

Act March 3, 1863. **5's.—C.** Series of 1875.  
JOHN ALLISON, Register. A. U. WYMAN, Treasurer.

A very fine counterfeit, which would easily deceive any one, except an expert. Genuine notes are printed on fibre paper; counterfeit on plain paper, but an attempt has been made to imitate the fibres by printing fine lines in the left panel of the back. Jackson's portrait is rather coarsely engraved, and the shading in some places is bad, especially of the words, United States, in title, being scratchy. "Series of 1875," in genuine is enclosed in flourishes, which are omitted in counterfeit.

Act March 3, 1863. **5's.—D.** Series of 1875.  
JOHN ALLISON, Register. A. U. WYMAN, Treasurer.

A fair photographic counterfeit, numbered B8,058,120. Some of the notes are a little short. An attempt has been made to imitate the fibre paper by pasting two very thin sheets together with bits of fibre scattered between them. "Series 1875," at right of vignette, is black, should be pink.

Act March 3, 1863. **5's.—D.** Series of 1875.  
JOHN ALLISON, Register. A. U. WYMAN, Treasurer.

Same photographic process and number as one above.

The black ground, made by photographing, shows through the pink coloring that has been put on the seal and Treasury numbers. The genuine bears the figures 1875, in red ink, upper right corner; they are entirely omitted from this counterfeit.

Act March 3, 1863.	<b>5's.—A. &amp; D.</b>	Series of 1875.
JOHN ALLISON, Register.		A. U. WYMAN, Treasurer.

A bad photographic counterfeit. Dark and blurred. Another counterfeit of this same series, with check letter A, also photographic, is so good as to deceive those accustomed to handling money. No attempt has been made to imitate the fibre paper. Seal is poor, looking smeary; numbering good. Engraving, under a glass, looks more like wood-cut than steel.

Act March 3, 1863.	<b>5's.—B.</b>	Series of 1880.
B. K. BRUCE, Register.		A. U. WYMAN, Treasurer.

A coarse and scratchy counterfeit, full of errors in spelling, Treasury, under Bruce, being spelled Trastay.

Act Feb. 25, 1862.	<b>10's.—B. C. 7 New Series.</b>	Dated Mar. 10, 1862.
L. E. CHITTENDEN, Register.		F. E. SPINNER, Treasurer.

Liable to deceive. Lathe-work and shading of letters coarse. Green ink little too dark. Eagle not finely engraved, and Lincoln's portrait lacks life and expression. Four green dots can be seen in the genuine, left of figure 1 in 10, in the green medallion counters; only three can be found in the counterfeit.

Act Feb. 25, 1862.	<b>10's.—B. C. Series 19.</b>	Dated March 10, 1863.
L. E. CHITTENDEN, Register.		F. E. SPINNER, Treasurer.

A good imitation, but the Treasury number is bad in color and formation of figures. Lincoln's portrait is poor in workmanship and likeness. Extend the line on upper side of note under Treasury number. On genuine it will strike below the letter N in New Series; on the counterfeit it will strike about the middle of the letter N.

Act Feb. 25, 1862. **10's.—B. C.** 23 New Series. Dated Mar. 10, 1863.  
 L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

A very fine piece of work and really dangerous. The line under the Treasury number when extended shows the same defect as above. The red figures are a very little smaller than in the genuine and the red is slightly blurred. The scroll work in genuine note reaches to figure 1 in 1862, right of Lincoln; in counterfeit it extends to figure 2.

Act Feb. 25, 1862. **10's.—B.C.D.** 52 Series. Dated Mar. 10, 1862.  
 L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Very dangerous; has deceived skilled money handlers. The work is so good that the general appearance will pass it almost without hesitation, but there is one infallible guide: On each side of the imprint of the American Bank Note Co. at top, on the genuine are fifteen small x's; on the counterfeit are fifteen x's on the right and sixteen on the left.

Act March 3, 1863. **10's.—A.B.C.D.** 53 New Series. Dated Mar. 10, 1863.  
 L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Another clever and dangerous counterfeit. There are said to be nine different counterfeits on this issue of 10's. Great care should be exercised in receiving them. Notice closely the lathe-work surrounding the 10's in green medallion. It is slightly blurred in the counterfeit. None but the cleverest expert would detect anything wrong with the engraving of the portrait of Lincoln, with the numbering, or the ink—all are good.

Act March 3, 1863. **10's.—C.** Series of 1875.  
 JOHN ALLISON, Register. JOHN C. NEW, Treasurer.

Numbering and engraving poor. Lathe-work fair. Imitation fibre paper, done by printing lines in the back of note. Notice this line: "This note is alegal tender fortен dollars;" no space between a and legal, and for and ten. That is the



way it appears on the counterfeit. On back of note, in right panel, *this* is spelled *tnis*. A very clever counterfeit.

Act March 3, 1863. **10's.—D.** Series of 1878.  
JOHN ALLISON, Register. A. U. WYMAN, Treasurer.

A poor photographic counterfeit. Numbers printed badly. Webster's portrait bad. Words "Register of Treasury" and "Treasurer of the United States," entirely omitted.

**10's.—D.** Series of 1880.  
B. K. BRUCE, Register. A. U. WYMAN, Treasurer.

A photographic counterfeit by the pen and ink process. General appearance good, but suffers upon close scrutiny. No imprint of the printer at top of note. Also "Series of" over 1880, omitted. Also the words "Register of Treasury" and "Treasurer of the United States," omitted. Green ink used is bad and will come off by moistening. Fibre paper imitated by printing lines in lengthwise. A large brown spike seal is on the counterfeit.

Act Feb. 25, 1862. **20's.—B. C.** Series 6. Dated March 10, 1862.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

This counterfeit will readily deceive. The Treasury numbers on the counterfeit are too large. Lathe-work bad and imprint of Bank Note Co. imperfect and irregular. The small dots across top and bottom of big green figure 20 are very indistinct in counterfeit.

Act Feb. 25, 1862. **20's.—A. B. C. D.** New Series 7. Dated Mar. 10, 1862.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Bad. Can not trace lines of lathe-work. Engraving coarse. Ink bad. Otherwise same as Series 6, above.

Act Feb. 25, 1862. **20's.—A. B. C.** Series 24. Dated Mar. 10, 1862.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Better than the last, but not good. Lines of lathe-work in

counters can not be traced. Letters of imprint irregular and crooked. Other description same as Series 6.

Act March 3, 1863. **20's.—A.** Series 15. Dated March 10, 1862.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Fair lathe-work and engraving. See Series 6, above.

Act March 3, 1863. **20's.—A.** New Series. Dated Mar. 10, 1863.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Bad and should not deceive any one. Lathe-work, printing, numbers, ink and engraving all bad. Same otherwise as Series 6.

Act March 3, 1863. **20's.—A.** New Series 19. Dated Mar. 10, 1863.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Very poor. Same as Series 6.

Act March 3, 1863. **20's.—A. B. C. D.** Series of 1875.  
JOHN ALLISON, Register. JOHN C. NEW, Treasurer.

Good at first sight, but full of errors on close inspection. Hamilton's portrait splendid, but the back ground has been shaded with a brush. Imitation of fibre paper done by pasting tissue paper over right panel of back, covering some fibrous material. Moistening removes the ink.

Act March 3, 1863. **20's.—B.** Series of 1875.  
JOHN ALLISON, Register. JAMES GILFILLAN, Treasurer.

Photographic and pen and ink process, producing a splendid and dangerous counterfeit, signed James Gilfillan, Treasurer. This is an infallible key to this note, as no genuine notes of this denomination and series were signed by Gilfillan.

Act March 3, 1863. **20's.—A. B. C. D.** Series of 1878.  
JOHN ALLISON, Register. JAMES GILFILLAN, Treasurer.

Pen and ink work, much like the one above. James Gilfillan, however, signed genuine notes of this denomination and series. At the top of the genuine note, directly under the

words "Legal Tender for Twenty Dollars," is the imprint "Engraved and Printed in the Bureau of Engraving and Printing." This last line is entirely omitted in the counterfeit.

Act March 3, 1863. **20's.—A. B. C. D.** Series of 1880.  
B. K. BRUCE, Register. A. U. WYMAN, Treasurer.

A fine counterfeit, described same as last.

Act Feb. 25, 1862. **50's.—C.** Dated March 10, 1862.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Very poor. Lathe-work, numbers and engraving all bad.

Act March 3, 1863. **50's.—A.B.C.D. 1 New Series.** Dated Mar. 10, 1863.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Not good. Hamilton badly engraved. Proper distance between signature of Chittenden and Spinner is  $1\frac{5}{8}$  inch; in this counterfeit it is only  $1\frac{1}{8}$  inch.

Act March 3, 1863. **50's.—A. C. D.** New Series 1.  
Pat. June 30, 1857. Dated March 10, 1863.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

A splendid counterfeit and very dangerous. Hamilton finely engraved, equal to genuine. Buttons on Hamilton's coat in counterfeit can scarcely be seen. In the large figures 50 the white lines cross the lower portion of the figure 0; in the counterfeit they do not.

Act March 3, 1863. **50's.—A. C. D.** New Series 2.  
Pat. April 28, 1868. Dated March 10, 1863.  
L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

An exceedingly fine and dangerous counterfeit, splendidly engraved and numbered. Octagonal shapes surround the small 50's on border of back; they are circles on counterfeit. At lower left end a mistake was made by omitting the 0 from one number and running it in with the next, enclosing both in one circle, and making it read 550. New Series 1 applies to this.

Act March 3, 1863. **50's.—B.** Series of 1869.  
 JOHN ALLISON, Register. F. E. SPINNER, Treasurer.

Very fair work. Genuine on fibre paper; counterfeit on plain. Genuine have this: <sup>SERIES OF</sup>  
 1869; counterfeit this; <sup>SERIES OF</sup>  
 1869;  
 the flourish omitted.

Act March 3, 1863. **50's.—D.** Series of 1875.

Photographic, pen and ink process. Moisture removes ink and insures detection. Otherwise fair.

Act Feb. 25, 1862. **100's.—B. C.** Dated March 10, 1862.  
 L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

Feathers of eagle's tail indistinct and eagle coarsely engraved. Figures 100, on back, right of circle, are reversed, thus 001. Few genuine notes of this denomination and series now out.

Act March 3, 1863. **500's.—B. C.** Series of 1869.  
 JOHN ALLISON, Register. F. E. SPINNER, Treasurer.

A wonderfully perfect and dangerous counterfeit, one of the finest ever issued. All the work is good. Lobe of Adams' ear is indistinct. Button on the coat near lapel is square, should be round. Star at right of Treasury number is slightly blurred. This note is printed on fibre paper, apparently genuine. Left foot of Liberty, as it extends from garment has a clubbed appearance.

**1,000's.—A. B. D.**

Act March 3, 1863. Dated Mar. 10, '62 & Mar. 10, '63.  
 L. E. CHITTENDEN, Register. F. E. SPINNER, Treasurer.

This is a very dangerous counterfeit, and it is not probable that a genuine note of this series and denomination will be presented to one of our readers in a life time, for very few genuine notes are out. Bankers should examine these notes with great care before accepting them. The United States Treas-



ury Department prepared the following description of this counterfeit soon after it appeared:

"General appearance very good and work well executed; paper made greasy to make it appear genuine. In the centre of the bill the vignette of Robert Morris, though well formed, looks as if pock-marked, and white of eyes like pin-holes; eyebrows irregular; nose as if pinched, and the shadow on its left, near the point, seems a part of that organ; while the original has a bright, intelligent face, and nose straight and clearly defined. Large words 'United States' rather dark, especially the shading; lathe-work in die and that in the border well done, but not as clear and plain as in the original; all the lettering in the bill shows the ink plainly, as if India ink. This may also be said of the signatures, looking as if stamped—that of Spinner being a plain imitation; that of Chittenden has a striking defect, its termination forming a serpent's head; the seal is not perfectly round. The back of the bill shows no prominent defects, only a general dingy appearance."

A very dangerous counterfeit. Engraving nearly equal to the genuine. A singular mistake was made in the genuine issue under this act, which the counterfeiters copied, that of dating the notes March 10, 1862, instead of 1863; this error was corrected in a subsequent issue of the genuine.

On the face of the counterfeit, the lathe-work in the border and on the corner of the note is much inferior to the genuine.

On left end of face of the note, in border, the words "Act of March 3, 1863," are much coarser than in genuine.

The circles of 1,000 that surround the portrait of Morris are much more irregular on the counterfeit than on the genuine.

On the counterfeit the face of Morris is more front view. On genuine the eyes cast more to the left.

The imprint "American Bank Note Co.," on right end of border, is much narrower than on the genuine.

On back of note the four points at each end of note are much more pointed than on genuine.

These differences were all noted by comparison with a genuine note of same date and check letter.

## COUNTERFEIT SILVER CERTIFICATES.

Act Aug. 4, 1886. **1's.—D.** Series of 1886.  
W. S. ROSECRANS, Register. JAMES M. HYATT, Treasurer.

Bust of Martha Washington has a blurred and scratchy appearance. The fine parallel lines that bear the Treasury numbers are too coarse and not exactly parallel. The note is shorter than the genuine and has no parallel silk threads. "Treasurer of the United States" is badly printed and irregular.

**2's.**

This counterfeit has no resemblance to any Government issue of silver certificates. It is a bold bluff. On the right end of face of note, is a spread eagle, and on the left end, two Indians, one standing, the other kneeling. The back is square, and green, the word *Silver* running through the centre in large white letters. This counterfeit is so bad in every respect that there is no excuse for any one to be deceived by it.

Act Aug. 4, 1886. **5's.—A.** Series of 1886.  
W. S. ROSECRANS, Register. JAMES W. HYATT, Treasurer.

Good appearance; color and seal very fair. The notch of the key in the seal should have a T shape, while in counterfeit it is a straight line. Grant's portrait looks soiled and scratchy, with two white patches on lower lip. Paper too light and no parallel silk threads. Note also too short.

Act Aug. 4, 1886. **5's.—D.** Series of 1886.  
W. S. ROSECRANS, Register. JAMES W. HYATT, Treasurer.

A well executed counterfeit and rather dangerous, numbers and seal being splendidly colored. Grant's portrait is not good, lacking expression and having a coarse, scratchy appearance. Bad shading on the left side of face and white patches on right side. Stud in shirt front is missing. The enclosing etched lines are much deeper and more clean cut in the genuine, making a darker back ground and giving the portrait a much more life like expression. The words "Register of the Treasury," are badly printed and irregular. The face of the counterfeit has a much lighter appearance than the genuine. Back of note, figure 6 in 1886, is bad, looking something like o. The dark green lines around the medallion to represent milling are scarcely visible in the counterfeit, while in the genuine they are clear and make the coin stand out in relief.

Act Feb. 28, 1878.

10's.—D.

Series of 1880.

G. W. SCOFIELD, Register.

JAS. GILFILLAN, Treasurer.

A photographic pen and ink process counterfeit, on poor, thin paper, which ought not to be dangerous. The Crane's patent paper used in the genuine is badly imitated by two parallel lines drawn across the note. Moisture removes the ink and is a sure guide to the fraudulent character of the note. This counterfeit is "Payable at Washington, D. C., No. 1,650,916."

Act Feb. 28, 1878.

10's.—D.

Series of 1880.

G. W. SCOFIELD Register.

JAS. GILFILLAN, Treasurer.

Another photographic pen and ink counterfeit, payable at Washington, D. C., No. B. 109,016. Note is a little too short and moisture removes ink. The photographic black also shows through the pink coloring that has been put on by hand.

Act Feb. 28. 1878.

10's.—D.

Series of 1880.

G. W. SCOFIELD, Register.

JAS. GILFILLAN, Treasurer.

Very bad counterfeit;  $\frac{1}{4}$  inch shorter than genuine. Lathe-work poor. Paper is made of two thin layers of tissue with the silk parallel threads placed between them to imitate the Crane's patent of the genuine. On the back, the word *all* is omitted from "And *all* public dues," and "whenso received," is printed thus, without space between when and so. Treasury numbers uneven.

Act March 31, 1878.

10's.—C.

Series of 1880.

B. K. BRUCE, Register.

A. U. WYMAN, Treasurer.

A poorly executed photographic pen and ink counterfeit, with the words, "*Register of the Treasury*" and "*Treasurer of the United States*," left out. Paper thin and poor, and of a yellowish tint. No attempt to imitate fibre paper. Robert Morris's portrait is badly engraved and his name is omitted from beneath. Shading is poorly done with India ink.

Act Feb. 28, 1878.

20's.—B.

Series of 1880.

G. W. SCOFIELD, Register.

JAS. GILFILLAN, Treasurer.

A rather poor photographic pen and ink counterfeit, on cheap, thin paper, payable at Washington, D. C., No. B. 675,114. The description of the second one above, 10's D, will also answer for this.

There is another counterfeit of this same series, B. K. Bruce, Register; Jas Gilfillan, Treasurer. Register is misspelled, thus: *Regisier*, and "Treasury" is indistinct. "Treasurer," under Gilfillan's name, is spelled *Troosurer*, and the letters of "United States" are very badly made. In the imprint on back, "Engraved" is spelled *engroved*, and misspelled words occur which can easily be picked out by a little study.

Act Feb. 28, 1878.

20's.—C.

Series of 1880.

G. W. SCOFIELD, Register.

JAS. GILFILLAN, Treasurer.

A bad counterfeit, photographic pen and ink process, described same as 10's D above, top of page.



Act Feb. 28, 1878.

20's.—C.

Series of 1880.

B. K. BRUCE, Register.

JAS. GILFILLAN, Treasurer.

A fair counterfeit, on thick, greasy and stiff paper, one-eighth inch shorter than genuine and without any attempt to imitate the fibre paper. In the word certificate, in left panel, the letters R, T and F are printed *up side down*. The periods after the initials of Bruce's name are omitted, thus: B K Bruce. *Taxes* on back is spelled *tares* and *engraved* is spelled *engravad*. Proper color for the seal is brown or nearly so, this is brick red. Only two sets of treasury numbers have been seen on these counterfeits, B1,467x and B1,487,415x.

20's.—D.

G. W. SCOFIELD, Register.

JAS. GILFILLAN, Treasurer.

Not a dangerous counterfeit; general appearance bad; paper thin and poor; no silk thread running lengthwise and no series given. Ink lacks brilliancy and lustre. Upper half of back very blue—looks like it had been wet and coloring had run. Lower half yellowish white.

1's.—D.

Series of 1886.

W. S. ROSECRANS, Register.

JAMES W. HYATT, Treasurer.

A fair and rather dangerous counterfeit. The check letter is D1768. A defect is noticeable in the left eye of Martha Washington, otherwise the portrait is fair. The lines around the portrait are not clean cut and lack distinctness. The numbering is not good, the ink, upon comparison with the genuine being quite a different blue. Lathe-work almost equal to the genuine. Imprint of Bureau of Engraving and Printing is bad. The back of the certificate is an inferior piece of work all through. No attempt to imitate the silk threads.

5's.—D.

Series of 1886

W. S. ROSECRANS, Register.

JAS. W. HYATT, Treasurer.

A dangerous counterfeit. Check letter D2017. Grant's

portrait is coarse and scratchy and lacks life and expression. Lathe-work in most parts is well done, but the shading to the letters is not good. In the key of the small round seal is a perfectly formed letter I, which the genuine does not have. The imprint is bad, and also the words Register and Treasurer under the names of Rosecrans and Hyatt are bad. Numbering good and ink a good imitation of the blue genuine. This counterfeit and the last above are produced by the photo-electro process and printed from glass plates. The paper used is poor, being stiff and coarse, and no attempt to imitate fibre paper used in genuine.

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### COUNTERFEITING COIN.

There are two principal ways of counterfeiting coin, with a mold and with a die. The most dangerous counterfeit coins are struck with a die. They are always more clean-cut in appearance, the lettering and milling are usually good, and the ring is much better than when made in a mold. Counterfeits of gold coin are generally made from a die. They are sometimes so nearly perfect in appearance that an expert could not detect one by sight. The reeding is generally the most defective part. By reeding is meant the raised edge like a little moulding running around the coin. By milling is meant the indented edge of the coin. Pennies and 5 cent nickels have no milling. All coins are reeded.

The principal way of detecting these counterfeits of gold coins is by their weight. However perfect they may be in other respects they are nearly always light in weight, and if the weight is right or nearly so they will be found upon measurement too large, generally a little thicker, but so slight as not to be observable unless a person had a genuine coin to compare them with or an accurate measuring instrument.

Most counterfeit silver coins are made from molds, as it is a much cheaper process. They nearly always lack weight and will not bear close inspection, the milling, reeding and general appearance usually being bad.

Counterfeiters of coin use a number of different metals for their nefarious purposes. The principal are platinum, brass, copper, silver, zinc, lead, antimony, aluminum, type metal and compositions of these. Platinum is a very heavy metal and hence makes a very dangerous counterfeit. The weight can be gotten correct and then if the gold plating is nicely done it is a difficult counterfeit to detect. Some platinum counterfeits have been found over-weight. When the plating wears off from use, which it will soon do on the edges, the metal beneath shows through and the fraud is plain. The most dangerous composition for counterfeiting gold coin is gold, silver and copper. This makes a low grade gold and will not stand the acid test. The U. S. standard is 900 fine or  $\frac{9}{10}$  pure gold,  $\frac{1}{10}$  alloy; these counterfeits run from 400 to 800 fine.

A very fine and dangerous counterfeit of the silver dollar is made from antimony and lead. They have a splendid ring, fine appearance, are heavily silver-plated and fall but a little below the standard in weight. They are well calculated to deceive. Most counterfeit silver coins are made from type metal, lead, zinc, etc., and are much below the required weight, unless they are largely increased in thickness.

A common practice of rogues now is to abstract in some way the metal from a genuine coin. This is mostly confined to the larger gold coins and the processes are known as sweating, plugging and filling.

Sweating is removing a portion of the gold from the surface. This was originally done by placing a quantity of the coins in a bag together and shaking them until the friction would abrade a portion of each in the form of fine dust. A

common method now is the acid bath. The edges are sometimes filed, too, in the milling, the quantity of dust obtained in this way from a large number of coins being considerable. The coin is reduced on the average by these processes from  $\frac{1}{20}$  to  $\frac{1}{10}$ .

Plugging is done by boring a hole in the coin and filling the place with some base metal. The place is then covered with gold, the reeding restored (it is generally near the edge) and the coin passes current, probably, till the plating wears off the plug.

Filling is usually done by splitting or sawing the coin through into two thin pieces, removing the entire interior of the coin, the sides being left sometimes as thin as paper, filling the empty inside with some base metal, joining the pieces together again, restoring the milling and it looks as good as ever. If the filling is done with platinum the weight is the same as the genuine. Coins by this process lose  $\frac{1}{5}$  of their value, if it is cleverly done.

#### TO DETECT COUNTERFEIT COIN.

There are different ways of detecting counterfeit coin. The most important points to be observed are the impress, size, weight, ring, and general appearance. It may be laid down as an almost infallible rule that if the three points are taken, *weight, diameter and thickness*, it will be impossible for any counterfeiter to comply with all these tests without using genuine metal.

Any one who handles much coin, then, should supply himself with a small, but accurate and delicately balanced pair of scales and a little instrument for measuring diameter and thickness. These little instruments have been made with great accuracy, having slots of exactly the proper size for the principal coins. It is necessary then to know the exact proper weight of each denomination which follows:



## GENUINE GOLD COINS.

*Double Eagle*—\$20. Weight 516 grains, 900 fine, 21.19 carats.

*Eagle*—\$10. Weight 258 grains, 900 fine, 21.19 carats.

*Half Eagle*—\$5. Weight 129 grains, 900 fine, 21.19 carats.

*Quarter Eagle*—\$2½. Weight 64.5 grains, 900 fine, 21.19 carats.

*Dollar*. Weight 25.8 grains, 900 fine, 21.19 carats.

## GENUINE SILVER COINS.

Denominations.	Coinage commenced.	Coinage ceased.	Standard Weight, grains.	Amount for which a Legal Tender.
Standard Dollars,	1878	....	412.5	Unlimited.
Dollars,	1793	1873	412.5	Unlimited.
Half Dollars,	1793	....	192.9	Ten Dollars.
Quarter Dollars,	1796	....	96.45	Ten Dollars.
Twenty Cents,	1875	1878	77.16	Five Dollars.
Dimes,	1796	....	38.58	Ten Dollars.
Half Dimes,	1793	1873	19.29	Five Dollars.
Three Cents,	1851	1873	11.52	Five Dollars.

The trade dollar weighed 420 grains. It was not a legal tender. They have now been called in and redeemed.

## MINOR COINS OF THE UNITED STATES.

Denominations.	Coinage commenced.	Coinage ceased.	Standard Weight, grains.	Amount for which a Legal Tender.	Deviation allowed in Coinage, in grains.
Five Cents,	1866	....	77.16	Twenty-five Cents.	2
Three Cents,	1865	....	20.	Twenty-five Cents.	4
Two Cents,	1864	1872	96.	Twenty-five Cents.	4
Cents,	1793	....	48.	Twenty-five Cents.	4
Half Cents,	1793	1857	....	Not a legal tender.	..

With these weights and an instrument for measuring the diameter and thickness of coins no one need ever be imposed upon. But if it is desired to carry the test still further we give

the acid test used at the United States Mint. This in itself will detect almost any counterfeit in existence.

#### U. S. MINT TEST FOR GOLD AND SILVER.

In using this acid test always apply it as near the edge as possible, as the coin is more worn there. If the coin is new and not worn at all always scrape it a little before using, and always do this with heavily plated coins. If the coin is genuine the acid will have no effect upon it; if it is counterfeit the color will change instantly. Be careful in handling the acid not to get any of it on the hands.

#### TEST FOR GOLD.

Strong Nitric Acid,  $6\frac{1}{2}$  drachms; Muriatic Acid,  $\frac{1}{4}$  drachm, or 15 drops; Water, 5 drachms.

#### TEST FOR SILVER.

24 grains Nitrate of Silver; 30 drops Nitric Acid; 1 ounce Water.

This acid test alone will be sufficient in ninety-nine cases out of a hundred to detect the presence of base metal, and taken in connection with the weight and measurement of diameter and thickness becomes absolutely infallible.

#### COUNTERFEIT CANADIAN NOTES.

1's D. Dominion of Canada.—This counterfeit is dated Ottawa, July 1, 1870, and made payable at Toronto. A white streak extends from the ear to the chin of the portrait of Jacques Cartier, and the portrait is otherwise bad. Lathe-work around 1 on right of note is not good, lines can not be traced.

1's A. Dominion of Canada. New Issue.—A bad counterfeit that should not deceive any one, looking like a rather coarse wood-cut.

1's. Union Bank of P. E. Island, Charlottetown, P. E. I.—A bad photographic counterfeit, dated 1st of Jan., 1872, and

numbered 30,252. The printing is bad and the whole thing looks blurred.

2's C. Dominion of Canada. New Issue.—This counterfeit is dated June 1st, 1878, and payable at Toronto. A rather dangerous counterfeit. Following defects will identify it: Lord Dufferin's portrait is coarsely engraved and has bad expression. The i's in the imprint, *British American Bank Note Co.*, are not dotted. Ink in numbers is brick red instead of bright carmine as in genuine.

2's B. Dominion of Canada.—This is a dangerous counterfeit note on Dominion of Canada, payable at Montreal. It is well engraved, the portrait of Lord Dufferin being almost equal to the genuine. The paper is a light yellowish cast, which is the best key to this counterfeit. In words, "For Minister of Finance," the final e is a little larger than the other letters. Notes of this issue should be scrutinized very closely.

2's A. Union Bank of P. E. Island, Charlottetown, P. E. I.—A bad photographic counterfeit, dated 1st of Jan., 1872. Its brownish color renders it easy of detection. Ink on face of note is very poor.

2's A. Same bank as last:—This is a very imperfect counterfeit of the new issue, dated March 1, 1875. It is too short and is very coarsely engraved, looking like a wood-cut. The imprint of the British American Bank Note Co. is omitted entirely from the lower border of the note. Lathe-work is very bad.

2's. Bank of Toronto.—This is an altered note of the International Bank of Canada, Toronto, which is dead. The title, "Bank of Toronto," has been rather skillfully pasted over the title of the defunct bank, and on some of the notes seen, the signatures of the officers of the failed bank have been erased and the signatures of the officers of the solvent bank written in. The date is Sept. 15, 1858, the same date of

the notes of the failed bank. The alteration can easily be seen by holding the note up to the light. To obviate this a strip of paper is sometimes pasted over the back of the note as though to mend it.

4's B. The Dominion Bank, Toronto, Ont.—This counterfeit is one of the old issue and is dated Feb. 1, 1871. The cashier's signature has been engraved on the note, whereas it is written on the genuine. A white line separates the portrait of Prince Arthur from the back ground work at the top, which does not appear in the genuine.

4's C. Bank of British North America, St. John, N. B.—A bad photographic counterfeit, No. 74,981.

4's. City Bank, Montreal, P. Q.—This is a very bad counterfeit, redeemable in Montreal; paper thin and poor; ink bad; lathe-work imperfect; bank out of existence.

4's. Bank of Upper Canada, Toronto, Ont.—A clever alteration from the notes of the failed Bank of Western Canada, Clifton. *Western* and *Clifton* are erased and *Upper* and *Toronto* substituted. Done with acid and by pasting.

5's C. Canadian Bank of Commerce, Toronto, Ont.—A bad counterfeit of the old issue, dated May 1, 1871. Portrait and other parts coarsely engraved. Cashier's signature is engraved on counterfeit; written on genuine.

5's A. Bank of British North America, Quebec.—A bad photographic counterfeit of the old issue, dated Nov. 22, 1871. The printing and ink are bad. The notes as far as seen are numbered 44,490.

5's. Bank of British North America, Kingston, Ont.—A very clever and quite dangerous counterfeit that had an extensive circulation. It is of the old issue, dated May the 1st, 1875. Not many genuine notes of this issue are in existence and the numbers are a pretty good guide. The genuine notes are all numbered from 30,001 to 36,000 inclusive. Most counterfeits



bear other numbers. The shading is entirely omitted from the scroll-work in the border of the counterfeit; in the genuine it is fine and clear.

5's D. Bank of British North America, Montreal, P. Q.—A fair counterfeit of the old issue. Genuine notes are dated 3d of July, 1877; on counterfeit the month date is entirely omitted. The vignettes are badly engraved, as also the imprint of British American Bank Note Co., in border, upper left.

Another counterfeit of this same issue is out, under date of 5th of July, 1877. It is evidently made from the same plate as the other, as they are exactly alike in all other respects.

5's. Bank of Montreal.—A counterfeit of the old issue, dated 1858, Sept. 1. Not very dangerous. Large panel in center bears the words *Twenty-five Shillings, Cy.*, and *Five Dollars* in lower left of note. Date of issue and numbers are in blue ink. Two vignettes in upper right and upper left. Quebec is spelled Quebeck in three places in blue ink.

5's E. Bank of Toronto, Toronto, Ont.—A very bad and easily detected photographic counterfeit of the Port Hope issue; signed Wm. Gooderham, President.

The Peterboro issue has a similar counterfeit.

5's A. Union Bank of P. E. Island, Charlottetown, P. E. I.—A badly faded and very defective photographic counterfeit that ought not deceive any one.

5's B. Bank of Nova Scotia, Halifax, N. S.—Another poor photographic, pen and ink note, dated Halifax, N. S., July 5, 1887. It is numbered 126,304.

5's B. Maritime Bank of St. Johns, N. B.—A very bad counterfeit. This bank has failed, and all notes upon it should be promptly refused.

10's. Bank of British North America, Ottawa, Ont.—A bad photographic counterfeit No. 16,279. This note will deceive no one; general appearance, ink and all bad.

10's D. Canadian Bank of Commerce, Toronto, Ont.—Very dangerous, has deceived those accustomed to handling money. Wm. McMaster, President; W. Cooke, Cashier. Dated May 1, 1871. Engraving is very good, but a little coarser than in the genuine, especially head of lion. Blue numbers are a little lighter than in genuine. The title "Bank of Commerce," is poorly shaded, being coarse and scratchy. Lathe-work is fine. The green ink on back is a trifle too light, and the lathe-work is not good. Paper too thin.

10's A. Ontaria Bank, Bowmansville, Ont.—This is a counterfeit of the old issue, dated Nov. 1, 1870. It is a little shorter than the genuine. Vignette of Woodman badly engraved, and imprint of Bank Note Co. defective.

There is another counterfeit of this same issue, some of which do not bear the imprint of the British American Bank Note Co. These notes both look bad.

10's. Merchants' Bank of Canada.—A fair photographic counterfeit, numbered D83,993 in black. The best means of detecting it is by the yellowish color of the green on back, which seems to have been put on with a brush.

10's. Merchants' Bank of Halifax, Halifax, N. S.—A fair photo-lithographic counterfeit, of the old issue, dated 1st of Jan., 1874. When new these notes are dangerous, but a little handling gives them a blurred appearance.

10's A. La Banque Nationale, Quebec, P. Q.—A very poor counterfeit, dated April 28, 1860. P in Pres't is directly over D in Dix, on genuine at bottom of note, but in counterfeit P is over ix.

10's. City Bank of Montreal, Montreal, P. Q.—The word Parliament is spelled Parliment on this poor counterfeit.

10's A. Peoples' Bank of New Brunswick, Frederickton, N. B.—A very poor and easily detected photographic counterfeit.

10's A. Maratime Bank, St. Johns, N. B.—A bad photographic pen and ink counterfeit, dated Oct. 5, 1881. Bank failed. Refuse all notes on this bank.

10's. Dominion of Canada.—A raised counterfeit, done by taking a one dollar note and scraping it with a knife and filling in with pen and ink. Refuse all notes of this kind because there *are no genuine \$10 Dominion of Canada notes.*

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This completes the list of counterfeit notes upon banks in the United States and Canada, and we believe by a careful study of the descriptions given, that no one need ever be deceived by a bad note. This list is designed, of course, more especially for reference. If you suspect a note of being bad, notice first whether it is a National Bank note, a United States note or a silver certificate. Then turn to the proper list, wherever it belongs, and if you can not find it in the list you may know it is good. If you find it in the list then examine closely to see if it bears the defects there described, and thus you can be absolutely certain. A little practice in examining and comparing notes of different issues will soon make any one familiar with the general principles of detecting counterfeit money.

## CHAPTER VI.

### DETECTIVE WORK.

WE consider it a vain and fruitless task to attempt to tell any one how to become a detective. If a man has not some natural adaptation to the business he will never succeed in it, however carefully instructed he may have been. There is, perhaps, no other profession, or calling, that requires so much versatility of mind and variety of accomplishment. The detective must be able to adapt himself to all circumstances of time, place and society. He should be able to talk intelligently upon, and show some degree of familiarity with all trades and professions. There is no field of knowledge that may not at some time become practically useful to him. He must be all things to all men; a gentleman among gentlemen; a tough among bummers. He must be as familiar with the slang of thieves and low people as he is with the elegant phrases of polite society.

This variety of accomplishment indicates the same variety in character of work to be done. It is the character of the work that necessitates so great versatility of mind and scope of knowledge. No two cases of detective work are alike. They are frequently similar, but never absolutely alike. And it is the little differences that give to each one its peculiar individuality and require for it, perhaps, an entirely different method of treatment from another that seems very much like it.

These observations lead us back to our first statement, that it is a vain and fruitless task to attempt to teach any one how to become a detective. The best that can be done is to lay



down a few general principles, explain the different classes of work and let each one work out his success under the guidance of that master hand *Experience*.

The first requisite to success, then, is the detective instinct. This no teacher or book can give to any man. It must be born in him. We believe, however, that almost every one possesses some degree of the detective instinct; in some it is very largely developed; in others to a very small degree.

The course of training to which the young detective may subject himself will have much to do with developing his natural detective faculty. The best schooling and the most practical, is the constant advice and companionship of an old and experienced detective. This is better than all the books that ever were written.

One of the first requisites of a good detective is perfect self-control. This should be both mental and physical, as far as possible. Control of the mind should extend to the suppression of the passions, anger, joy, fear; to the habit of composed and rapid thought under exciting and trying circumstances; to mental versatility in diverting attention from a danger point, or leading the conversation skillfully and without apparent design to a desired subject and eliciting information thereon. Physical control should extend principally to facial expression, although cases frequently arise in which many physical infirmities must be simulated. The face must sometimes express joy and delight when the real feeling of the mind is one of disgust and aversion. Intense hate must sometimes frown from the face when the real feeling behind it is that of admiration or love. Words, conduct and facial expression must be consistent, otherwise a charge of insincerity will be preferred by people whose observation would not ordinarily be considered acute. In other words, a detective should not talk hate from a countenance beaming with joy and de-

light; he should not voice his admiration when every lineament of his face shows disgust and contempt.

A detective must have patience to await results.

He must have physical endurance to undergo fatigue and hardships.

He must have a keen observation for faces and physical differences.

He must cultivate the ability to read character in the human face.

Detective work proper has been divided into classes. We do not consider that this classification is particularly valuable, but as it facilitates explanation and perhaps covers the field, we give it:

1. The first and least difficult class of detective work is shadowing. By this is meant watching some person in his every movement, never for a moment losing sight of him. It is tedious and tiresome work and requires endurance, shrewdness and quickness of action. The proper way for a young detective to train himself in this class of work is to pick out some stranger and follow him, taking great care that he does not discover what you are doing. A number of artificial cases will soon teach the learner the difficulties to be overcome and how best to do it. Never lose sight of your man. Always keep your eyes on him, while not appearing to do so. Do not follow too close, neither too far away. Always be near enough to distinguish any motion or sign he may make to a confederate. When on an actual case, and also when practicing, write out a full and complete account of every movement of the person watched. If the movements are complicated, notes may be taken as you go along and written out in full after the watch is over. In actual business this has to be done for the satisfaction of your employer and it should be done in practice to prepare for business. While, as we have said, this class of work

is usually placed at the head of the list as the simplest and easiest, it is really sometimes the most difficult.

2. The class of work usually placed next, though we consider it the most difficult of all, is that of ingratiating yourself into the good graces of people whom you suspect and obtaining from them the information you want. A detective when performing this kind of work is sometimes called a "roper," though this term has no general use in the profession. This work is extremely difficult and requires a splendid knowledge of human nature and the ability to read dispositions from the countenance and other external appearances. The identity of a detective must be absolutely concealed, otherwise he could not make a beginning in this class of work. To prepare for this work, study human faces, and read characters by facial expression and then verify your results by becoming acquainted with the party. Look out for the weak points—if you obtain anything from a man by strategy, it will be by attacking his weak point. Every man has a weakness. Flattery catches most men, but great caution must be exercised in regard to the subject or point upon which it is attempted and the manner in which it is done. Here is where the study of human nature comes in. Some men will stand broad and fulsome flattery; with others it must be a delicate insinuation. It may be a man's physical appearance, or his elegant dress, or his polite manners; it may be his intelligence or education; it may be his self-supposed lack of susceptibility to flattery, that constitutes his weak point and that he may be drawn toward you upon. The principal object of this is to cause the party to feel kindly toward you—then the battle is half won.

In this class of work, never hasten, never ask pointed or leading questions, bide your time, letting things take their natural and easy course. If you are skillful you can make it easy for him to tell what you want to know by directing the con-

versation properly. Sometimes, when a crime is to be unearthed, the detective, after becoming thoroughly acquainted with the one suspected, becomes confidential and secretly admits some act in his own life of a criminal character. This often secures a return of confidence from the other side and reaches the desired end. You must know the business of other people while they do not know yours. If the person should become suspicious of you, never under any circumstances betray the fact that you know it, but do all you can in an indirect way to overcome it. Retrace your steps and reestablish yourself in his confidence if possible, but if it is plain that his confidence in you can not be restored, quietly retire from the case, still not showing by sign or word that you knew he suspected you.

This is work that requires a vast fund of patience and persistence. Never say fail. If thugs and toughs suspicion and threaten you, stand firm, cool and collected, keeping your presence of mind, and prepared for the worst.

3. There really is no other class of detective work proper, but there is other work that detectives do and it is called by some, investigating. This is usually done without any attempt to conceal the identity of the investigator. It is done by interviewing everybody who may possibly know anything about the subject you are investigating. The principal thing to be learned is how to extract information from people by plying them with questions. Do not imagine that this is easy at all times. It may be very easy and it may be very difficult. It requires a great deal of tact in framing the questions, also in observing the replies, to note whether the party is concealing anything or possesses other information which a different form of question will bring out. Watch out for evasive replies—those that tell the truth, but not enough of it to be of value and seem to be guarding a point. A successful investi-



gator ought to be well or fairly well educated, must have shrewdness and knowledge of human nature, and must be bold and venturesome. This work really resembles more the fine point-picking of an attorney's cross-examination than detective work, yet detectives have it to do. Years of experience in this field will be required to make one thoroughly proficient and then there is always something to learn.

#### GENERAL REMARKS.

It is not every detective who is good in all branches of the work. It is plain that a rough, uneducated and uncouth man could never succeed in ingratiating himself into high-toned society, still he might be well adapted to other lines of work. He could go into a bar room among toughs, mingle with them, cultivate their acquaintance, talk of his escapades and perhaps get information of some desperate crime that had been committed or that they were plotting. It should be observed here, that in cases of this kind the detective should always apprise the officers or his partner of what he is about, so that if an arrest is made he will not be taken with the others, or at least there should be an understanding so as to avoid difficulty.

A society gentleman, accustomed to wear fine clothes, and familiar with social rules and customs, is better adapted for work among that class of people. Neither does every detective do good work of all kinds in the same grade of society. A good shadow may be a very poor investigator, and may never be able to learn it so as to make a success of it. So that it frequently happens that different men work different features of the same case.

One of the best schoolings for a detective is the police court of a large city. Here the criminal riff-raff of creation congregate and their faces may be studied and features and peculiarities fixed in the mind. Learn the peculiar form of crime of each and how he works and where he haunts. A

good and cheap way to fix the faces and features of these people in the mind is to procure some book containing reliable portraits of them.

In regard to books containing portraits we desire to say, however, that no one is worth anything after it is two or three years old. Five years will almost suffice to change the whole criminal fraternity of the country. New crooks are coming up all the time and old ones are passing away, either settled in some prison or passed over to that Court from which there is no appeal. The dangers and hardships of the profession make the average life of the criminal short. Of course we all know of some who have grown old and gray in crime, yet they are the exceptions. So that the detective who expects to do any thing with criminal work must keep himself posted all the time. He must know the criminals of the country. The books and photographs are good in their way, but should certainly be supplemented if possible by knowledge obtained from actual contact. There is no better place for obtaining this than about a police court. Another class of education also important can be gained by attending great criminal trials. Listen carefully to the evidence, observe how it is drawn out by the attorneys, study motives, theories and defenses of crimes and great profit will be derived.

Arming men and placing them to guard a coal mine or a railroad is not detective work, although some agencies in the country are engaged in doing that business. If a man wants to be a detective he wants other training than that. A man can not learn any thing about detective work by being put in uniform and assigned to patrol a beat. Detective work can not be done in uniform.

The greatest secrecy should be observed at all times by those employed on a case. No one of the celebrated detective force of Paris is permitted to know what any other is doing

unless two should be assigned to a case together and not always then. The custom of running to the newspapers with every little case that comes up is very detrimental to the service and results from a desire for a little cheap notoriety.

To the public at large, too, we would say, if you meet with a loss, have a watch or purse stolen, do not raise a big fuss about it but go quietly to the authorities or to some private detective in whom you have confidence and detail the circumstances of the loss, and any evidence or pointers you may have and set him quietly to work on the case. The chances of discovering the criminal and bringing him to justice are much greater than if a big noise were made about it. If a person becomes a fugitive from justice then of course it is proper to publish him in some paper of general circulation devoted to criminal matters, like the INTERNATIONAL DETECTIVE.

These hints, we believe, will be sufficient to put all bright young men on the track and they will be able to work out their own success.

As an illustration of practical detective work we append hereto the account of the method of working out to successful issue one of the greatest cases that ever occurred in this country. It is known among secret service men and in the courts as "The Oshkosh Case" and our object in inserting it here is to make it a practical illustration of the principles laid down in the foregoing pages. No attempt will be made to produce startling situations or thrilling climaxes. The plain historical facts contain enough of the sensational. The accounts will show how a great case was worked up, the theories advanced, the plans adopted to obtain certain information, the schemes to entrap villains, the sensitiveness of instinct in apprehending danger, and all the multifold moves on the great chessboard of human action to secure the triumph of right and discomfiture of wrong. One of the best features of this case is

its truth. Every point of the story can be verified, as we give names, dates and places. There are many fine points of detective work in it, and it should be carefully studied. Captain J. C. Grannan, Manager of the Grannan Detective Bureau, was the principal actor on the side of law and justice, and he considers it one of the greatest cases he was ever engaged in and one of the most important that has ever occurred in this country. We commend it to the careful study of all who are interested in detective work.



# THE OSHKOSH CASE.

## I.

### FATAL FLAMES.

**I**N Oshkosh, Wis., there is no better or more favorably known family than the Paiges. Simon B. Paige, in 1881, was a millionaire. He boarded at the aristocratic Beckwith House with his accomplished wife, and they had every luxury that fastidious taste could suggest, or unlimited means procure.

His wealth he was himself scarcely able to estimate. He was a member of the great lumber firms of Paige, Dixon & Co., of St. Paul; Paige Bros., Davenport, Iowa; S. B. & J. A. Paige, Fon Du Lac, Wis.; The Paige-Sexsmith Co., Superior, Wis.; and had other large business connections. He owned a \$500,000 lumber mill at Duluth, and one of the finest stock farms in the North-West, on which he had many valuable blooded horses. His acres of timber in that great wooded region were numbered by the thousands; while he did not himself know the exact value of his estate of course others did not, but he was popularly supposed to be worth a million, and subsequent events proved him to be worth almost ten millions. One day in the beautiful autumn of 1881, while this lumber prince was speeding a pair of his fast and blooded stallions on his private race course, the alarm of fire was sounded.

Not thinking of danger to any of his possessions, he continued his drive until the immense columns of smoke mingled with lurid flame attracted his attention and he turned toward the city. As he approached the rapidly increasing conflagra-

tion he discovered to his horror that the flames emanated from the Beckwith House, his temporary home, and where he had left his wife, happy and smiling, less than an hour before.

The large frame structure was composed of exceedingly inflammable material, and burned like a tinder-box. The fire department responded as rapidly as possible, but found the building enveloped in flames, and impossible to save. New horrors awaited the awe-struck people in the announcement that some guests had been cut off from escape by the rapid approach of the fire, and were even then locked behind those impassable barriers of flame. A shriek and a blanched face at a window established the fact that at least one life was in imminent peril. Just then Simon B. Paige dashed upon the lurid and sickening scene. The instinct of love directed his gaze to the floor of his apartments. Through the curling smoke and leaping tongues of flame that now alternately encircled the shrieking form at the window, he quickly discerned the features of his wife.

"My God! my wife!" he cried. "Rescue her, for God's sake, rescue her! Is there no man here brave enough to bring down my wife? A thousand dollars, two, five, ten thousand dollars—any sum to the man who will save my wife!"

But the heroic firemen needed not the promise of reward to impel them to undertake this perilous duty. Already ladders were reaching toward the fatal window. And now a brave man, he must be brave indeed, who essays so hazardous a task, is rapidly mounting flame-ward.

"Play the stream around the window," shouted the Captain. A denser darkness of smoke followed the deluge of water about the window, and the white face was obscured from view, to be momentarily revealed again, a harassing picture of agony and despair. On mounted the hooded knight of fire higher into the smoke, farther into the flame. Now the whirl-

ing and eddying currents of superheated air drove down on his heroic head a rolling volume of dense smoke, blinding, stifling him.

"Come back!" shouted his companions below. "You'll lose your own life and not rescue her."

If he heard, he heeded not. The cloud rolled away and he mounted higher. Fierce flames darted their fiery tongues in his bronzed face. He recoiled from the terrible heat.

"Ah, he's given it up; he's coming down," joyously cried his comrades, below.

"Go on, go on!" shouted Paige, frantic with despair. "Go on, brave boy. Reward! Reward! Money! Fortune! Only save my wife." The apparently hesitating fireman probably heard not a word that was spoken. The roaring and crackling of the flames, the splashing of the water, the mingled shouts of men and cries of terrified women creating a din that completely extinguished and swallowed up every individual sound. A momentary gust swept smoke and flame away and revealed the valorous fireman, battling heat and suffocation, gazing upward to the window, now so near, and the white face above, unconscious of his presence, silently beckoning him on. The moment seems auspicious. A few rapid strides upward brought him almost within reach of the suffering victim. Fierce flames shot their furious rage in his face now, like demons about to lose their prey. The stoutest heart must recoil from that terrific attack. A moment to give better protection to face and eyes, then that raging flame-chasm must be crossed. It is narrow but terrible. Quick, man, she's fainting, she's reeling. Save her now or she is lost. With a bound he scales the last few rounds, crosses the roaring fringe of flame that encircles the window and grasps her falling form. With lightning-like rapidity the rope is loosed from his own body and securely attached to hers. Hand over hand,

with swiftness and ease, he lowers her now unconscious form to the ground. A signal jerk on the rope tells him that she is in safe hands. He hesitates a moment before undertaking that perilous descent. But there is no time to lose. A crash in the rear indicates that floors are already giving way. Carefully protecting his face, he swings himself once more through the now increased and rapidly spreading flames, on to the ladder, and with rapid descent is soon out of danger, weak and exhausted.

For the moment all attention is directed to the rescued Mrs. Paige, who has been removed to a neighboring house. The physicians, after a hasty examination, pronounce her external burns very serious, but not fatal. All expressed a serious apprehension, from the peculiarity of her breathing, that she had inhaled flame, in which case recovery would be impossible. Mrs. Paige received the most careful nursing and the best medical skill that could be procured. A very few days, however, developed the terrible results of the fatal flame inhalation and death came to her relief.

Simon B. Paige was distracted with grief. The newspapers gave long and sensational accounts of the fire, and dwelt particularly on the tragic death of Mrs. Paige, speaking of the great wealth of Mr. Paige and of Mrs. Paige's beauty and accomplishments. The great prominence and wealth of the family, as well as the tragic character of the catastrophe, caused the newspapers of the entire country to reproduce these articles from the local papers, or to give, in many cases, graphic original descriptions of the fatal occurrence. This great publicity given to the affair, and the fact that in all these articles the wealth and prominence of the Paiges were particularly dwelt upon, has a very important bearing upon the case, as will appear further on.



## II.

## A SECOND MARRIAGE.

Not long after his wife's sudden death Mr. Paige received a letter from a Mrs. Mary E. Fagan, of New York, stating that she was an old girl friend of his late lamented wife, whose untimely death she mourned with him. It was a letter of condolence written in rather a gushing manner, and offering for his dear wife's sake to do anything that lay in her power to lighten his burdens and soothe his sorrows. In fact, she begged to be allowed to come and take care of his motherless children.

He replied that he regretted to say that he had never heard his late wife speak of a friend of her girlhood years of the name given, but supposed probably it had escaped his mind. He thanked her very kindly for her generous offer to come to be a mother to his motherless children, but as he had no children, there was really no necessity for that. This letter brought a second, which detailed so many circumstances of his wife's early life, that he was convinced Mrs. Fagan and his wife had really been companions in their youth. She said she was a widow; that her maiden name was Libby; that her husband had been dead about two years, and gave other particulars of herself and family.

Other correspondence followed, which his friends knew little of, for it soon began to partake of that sentimental character which he did not care to make public.

This woman, in fact, first by her correspondence, and subsequently by the magnetism of her presence, exerted a powerful influence over Mr. Paige. Perhaps he labored under the delusion that she would make a worthy successor to Mrs. Paige and fill the void to a certain extent which her tragic death had created in his home and heart. He went to New

York twice to see her, and on his second visit they were married, January 9, 1883, against the strenuous objections of his brothers and friends.

### III.

#### A TRAGIC DEATH.

The honeymoon was spent in American travel. The principal cities and points of interest in the country both East and West were visited. Two months thus spent found them at Davenport, Iowa, where Mr. Paige had milling interests. They stopped here at the Kimball House. On the morning of March 11th, 1883, two months and two days after their marriage in New York, Simon B. Paige was found dead in his bed in this hotel. Death had resulted from a pistol ball wound in the head. Great excitement was created by the announcement that Simon B. Paige, the millionaire lumberman, had suicided. His wife affected inconsolable grief. His friends knew no reason for melancholy or dissatisfaction with life. Of course they had seen nothing of him since his second marriage. They thought perhaps he had become convinced of his great mistake, and not caring to face his relatives and friends, had determined to take his life. Others broadly hinted that the woman had something to do with his taking off, although there was no direct or positive evidence of this. The obsequies were scarcely over when she began with eager and unseemly haste to seize all the property and convert it into cash. His brother, C. C. Paige, became satisfied from her appearance, conversation, and the circumstances of their courtship and marriage, that she was an adventuress, and thought that they ought not to submit to this wholesale robbery by one entirely unworthy of their dear, but misguided brother, without making a thorough investigation of her character, antecedents and history. The long and complicated legal warfare that ensued,

had for its object on the part of the woman, the obtaining and holding all of his property, which the law, in the absence of a will, would give her for life, there being none but collateral heirs to the estate. His brothers believed that the whole thing was a scheme set up by this woman, to marry a millionaire, enjoy the luxuries of wealth and social station and finally come into possession of his vast property herself. They believed that a woman capable of conceiving and so far executing so base a design must have a history; that so cold and heartless an adventuress would likely have made some alliances in life that would render her marriage with their brother illegal. In short, they did not propose to see her walk off with eight or ten million dollars without knowing who she was and something of her antecedents and personal history.

At this point began a campaign of the most remarkable detective work ever accomplished in this or any other country.

#### IV.

##### OPENING THE CASE.

Mr. C. C. Paige, the surviving brother of Simon B. Paige, whose sudden and tragic death gave rise to all sorts of rumors and suspicions, adopted the Fabian policy of delay until he could have opportunity to investigate the record of his dead brother's wife. Besides her name, Fagan or Libby, he knew nothing. Notwithstanding this he corresponded with a number of detectives in different parts of the country. The best talent in New York, Chicago, St. Louis and Cleveland worked several weeks on the case without result.

In June, 1883, Col. Reilly, then Chief of the Police of Cincinnati, received a letter from Mr. Paige asking him to send him the name of some reliable detective here. Col. Reilly recommended Captain J. C. Grannan, Manager of the Grannan De-

TECTIVE Bureau, as a man competent for the work. A few days later Captain Grannan received a letter from Mr. Paige.

The information that he was able to send about the work to be done was meager indeed, beyond the names she herself had given, which, if she were an adventuress, might be entirely wrong, and a description of her personal appearance, and the additional fact that she had somewhat of a literary disposition and a *penchant* for the stage, and might have been an amateur actress at one time. Beyond these slight clues Captain Grannan had nothing to guide him.

Further correspondence settled the terms, and having the assurance that the case involved much, and that success would be amply paid, he went to work nothing daunted by the meagerness of the information at hand. He worked faithfully for five weeks, diligently searching in every department or field of labor in the city. Literary people, library people, theatrical people, all were cautiously questioned, but none were able to furnish any information. The directory showed only five names of Fagan and Libby together, and these followed closely proved to have no relation whatever to this case.

After five weeks of hard and fruitless labor, he felt greatly discouraged, and wrote Paige that he regretted very much that no clew whatever of a Fagan or Libby family could be found. He detailed the circumstances of his search, stated that he was considerably discouraged, but would not abandon the case. He still hoped something might occur to throw some light on the matter, and assured Mr. Paige if these parties ever had a home in Cincinnati or were known publicly here, he would find a trace of them.

## V.

### LIGHT.

An hour after mailing this discouraging letter, he was walking up Vine street and met John Davis, the theatrical



agent, for years door-keeper of Robinson's Opera House in this city, and personally acquainted perhaps with more theatrical people than any other man in Cincinnati. The thought flashed upon the Captain's mind that possibly Davis might know something of the parties he was looking for. He accosted him in his usual hearty manner, asked him to take a cigar with him, and in the course of the resulting conversation, found excuse to ask about his knowledge of a family by the name of Fagan or Libby. The Captain's last hope seemed to die within him, when, after ransacking the chambers of his memory for many minutes, Davis was unable to recollect any one of that name. "But," said he, "I want to introduce you to a young man who knows everybody in light comedy and especially ballet. He has charge of the ballet at the Grand Opera House. Come, and we will find him now." Starting out, they soon found Mr. Chas. Bauer, at the corner of Vine and Longworth streets, and the Captain was introduced. They talked the matter over. He remembered no one by the name. The Captain dwelt particularly on his personal description.

"By Jove," exclaimed Bauer, "I wonder if it could be Alice Pierrepont and her sister? We had two sisters here of that name, and your description sounds like them." Then they compared notes further, and Captain Grannan became convinced that he had found some one whose personal description answered very closely to that given him of Mrs. Mary E. Fagan, now Mrs. Simon B. Paige.

"Where did they live?" asked the Captain.

"At 101 Barr street, I think."

It was now in the evening. Early next morning found him at 101 Barr street, ringing the door-bell. The lady of the house knew nothing of any one of that name. She had only lived there a short time. Did not know who was there before her. The neighbors next door had lived there a long time,

and would probably remember if any one of that name had ever lived there. Frustrated again, he sought the next door.

It should be stated in all these cases, to allay suspicion of the real cause for which he wanted information of this woman, and also to interest the listener in his questions and search, and to obtain all the information, he had uniformly told that he represented a law firm in New York—that they had positive information that a large fortune had been left in England to the Libby's and that he was very desirous of finding Mrs. Fagan, or Libby, in order to apprise her of her awaiting fortune, as there would be a good fee in it for him, if he could find her.

He rang at 103 Barr street, next door to 101; a young lady came, evidently the daughter. The Captain sang the same song to her, of the New York law firm, and the fortune, that he had to all the rest. She swallowed it open-mouthed and with staring eyes, and without making any answer to Captain Grannan's question ran to the stairs and called up, "Oh mamma, come down, the Libby's have been left a fortune. They won't have to play on the stage any more."

It is impossible to describe Captain Grannan's joy at hearing these words. This must be right. At last a trace is found! The mother came down. Their curiosity was insatiable. They wanted to know so much from him that he could scarcely get the information he required from them.

He read an imaginary letter from the New York firm. He had provided himself with a book on English estates, and read to them from that to convince them that it was all right. He learned from them that Mrs. Mary E. Fagan was a married woman, but did not live with her husband. That she and her younger sister, Miss Libby, performed in the ballet, and took the part of supernumeraries in light comedy at the Grand Opera House, under the stage name of Alice and Laura Pierre-

point; that they had left nearly a year before for New York; got a more accurate personal description and satisfied himself that this was the right party.

He told them that he had the greatest difficulty in getting pictures of the true heirs to this fortune, by which they could be identified; asked if they knew whether they ever had any pictures taken? "Why, yes, we've got a picture of Mrs. Fagan. Jennie, go and get that photograph," and Jennie, after a little fumbling around, produced a very good cabinet photograph of Mrs. Mary E. Fagan, alias Alice Pierrepont, now Mrs. Simon B. Paige.

"Now, if you would be so kind as to loan me this picture," said the Captain in his blindest tones, "I might be able by it to do these people the greatest service."

"Why, certainly," said the old lady, "take it along."

"You can keep it if you like," said the daughter Jennie, "I don't really care for it."

With his picture and his information the Captain departed from that house, the happiest man that walked the streets of Cincinnati that morning. He rushed to the telegraph office and wired Paige: "Since writing you yesterday have made a valuable discovery; particulars by first mail." He went to a photographer and had a new negative taken from the picture and sent the original photograph to Oshkosh with the particulars of his find, for identification by the Paiges.

To say that Detective Grannan was elated, weakly expresses his feelings. He was half wild with joyous excitement at his unexpected discovery. He was certain he had the right party. And then his discoveries contained possibilities of success that he had hitherto scarcely dared to dream of. Mrs. Fagan—a married woman! Had she ever been legally separated from her husband? If not, then her marriage with Paige was illegal and void. At once the magnitude and char-

acter of the work to be done unfolded itself before him. Yielding no longer to the ecstasy of joy that further developments might make ephemeral he proceeded to plan his work.

## VI.

### IN THE VALLEY.

Help was needed. Mr. John A. Burgoyne, a young member of the Bureau, temporarily residing in Summit County, Ohio, who had manifested considerable detective ability, was summoned to the city by telegraph. He came without delay. In an hour's private consultation with Captain Grannan, enough of the nature of the case was unfolded to enable him to work intelligently. The discoveries of the last two days were carefully narrated. He was first assigned to see the owner of the house in which the Libbys lived on Barr street, and learn from him all additional facts possible, especially when they left the city and where they went.

Detective Burgoyne shrewdly surmised from what he had already learned of the Libbys, that, perhaps, they left rather suddenly and probably owing rent. So, to put himself on sympathetic relations with the landlord, he represented himself as a creditor of the Libbys, said they had bought material from him for costuming while on the stage, and had never paid; he thought he would look them up; could not find them at their late residence, and thought he might give some information, etc.

"Well, now, I'll tell you, my young friend," said the landlord, "I think you might as well charge that little bill up to P. and L. Why, the Libbys left here a year ago or more. They owed me a month's rent, and I guess that's gone. You see, I'll tell you how it was, since you're somewhat in the same boat with myself. Mrs. Libby and one of the girls, the unmarried one, her name was Laura I think, packed all the



furniture and left for the east, taking the two small children of Alice with them. The other girl, the married one, the mother of these children (I never saw any husband around though), remained behind three or four weeks.

"She came over when her mother went away, to say that she would stay till her mother sent her money to pay the rent. Well, sir, you may not believe me, but that woman actually stayed in that empty house three weeks. She had nothing but an old straw tick thrown on the floor to sleep on and no cover but her own clothing. She had an old wash bowl and an almost toothless comb, and made her toilet by a small three cornered piece of a looking glass fastened to the wall with three tacks. Not very luxurious living, eh? I don't know how or where she got anything to eat.

"Well, one morning a small hand express stopped at the door of the Libby residence, a very small and shabby looking trunk was brought out by the expressman, and he moved off with his valuable load toward the C. H. & D. depot. Mrs. Fagan then appeared at the door, and seeing me standing there by my gate, just across the street from her, came over and handed me the key, saying that she regretted very much that she could not pay the rent, but her mother had been disappointed in getting money and she would send it to me when she got east. But I never expect to get it, my friend, never."

"How did she spend her time here after her mother went away?" queried the young detective.

"I can't say, but I heard after they were all gone, that she was staying here really to get a divorce from her husband. I don't know whether she got it or not, but I guess Charley Baker would get it for her if it could be done."

"Charley Baker had the case, did he?" asked Detective Burgoyne.

"That's what I heard; fact is, I never thought any more

about them, after they went away, and paid no attention to the reports that went around."

"Well, I think my bill is a dead duck, as you say, and I guess I will go back to the office and charge it up to P. and L.," and thanking the landlord for his information and bidding him good day, our young member took his joyous way back to the office to report.

"A divorce! Charley Baker, the attorney!" sang out Detective Grannan. "Here's something new. By Jove, I'll see him. We're going to the bottom of this thing." And almost before the other members present knew what was meant, the Captain had passed out of the door and disappeared on his way to attorney Chas. W. Baker's office.

"Hello, Charley!"

"Hello, Captain, come in. How's everything?"

"First-class, couldn't be better. How's the law?"

"Busy all the time, but always got time to give a few minutes to a friend. What can I do for you to-day?"

"Well, nothing of much importance. One of your clients, or at least I understand it is one of your clients, owes me a little bill, and I thought you might throw a little light on the subject, and perhaps give a little assistance in getting it."

"Well, now, I don't have many of that kind of clients that owe little bills around promiscuously, but—"

"Well, this might have been a charity case, Mr. Baker."

"Possibly so," said he, laughing, "who is the party?"

"Mrs. Mary E. Fagan."

"Oh, yes, that was a charity case, sure enough. But I guess she is able to pay you now, as she has recently married, and I understand rich."

"Married! hardly married again?" said the Captain. "She is already married."

"Oh, yes, but I got her a divorce recently."

"So? How long since?"

"Not long ago. Let me see," turning to his book. "Yes, here it is. The decree was granted on the 19th day of December, 1882."

As he held the book open, the Captain's sharp eye caught the docket number of the case, 64554, which he hastily penciled on his cuff.

"Yes, I sent the divorce on to New York to her, \$75.00—C. O. D., and the money came back. I don't know how she raised it."

Thanking Mr. Baker for his kindness, the Captain left.

This was progress, but not so encouraging. That divorce might knock the bottom out of the whole case. Captain Grannan felt considerably cast down about it but reported at once to Paige by wire, that Mary E. Fagan had been divorced and he would send certified copy of proceedings by mail. Though not now so hopeful he was still determined to go to the bottom and taking detective Burgoyne and confidential clerk Grigsby, went to examine the court records. In twenty-four hours they had true copies of the entire proceedings, properly certified, in the mail and on the way to C. C. Paige, at Oshkosh. The return mail brought a check for \$100 and an order to come to Oshkosh by first train. The Captain telegraphed his departure and arrived in Oshkosh six hours sooner than Mr. Paige expected. He went to his office about 11 a. m. Mr. C. C. Paige was in the iron business. The Captain found him very busy.

## VII.

### A DETECTIVE'S SONG.

Captain Grannan introduced himself to Mr. Paige as the representative of the Union Fence Co., Painesville, O. "I only want about three minutes of your time, Mr. Paige (I believe I have the honor of addressing Mr. Paige.)"

"That is my name, sir."

"I have been sent out into your great country, Mr. Paige, to introduce what is known as the Patent Combination Fence, composed of wood, iron and sand. We use in making our fence large quantities of iron in all forms. You are a manufacturer of iron, and if I am successful in introducing our fence, we want to contract with some large manufacturer here to make the iron for us."

"Well, that sounds like business," said Paige.

"Yes, sir, we mean business. We've got the best fence in the world, and we know it, and we propose to put it up all over this country. We have the great secret of making wood as durable as iron. Our fence is a wooden fence except posts and points. We take a piece of green wood, and by a mechanical contrivance we suck every particle of sap or moisture out of it. The stick is left like a honey-comb, and while in this open or honey-comb condition, we force into it by powerful machinery a resinous or bituminous substance. The wood is thoroughly infiltrated with this substance. It will last till the millennium. Then we make it into all shapes and sizes and patterns. The delicate workmanship on a fence suitable for your front yard is in striking contrast with the strong enclosure for a jail yard that we also put up. Then there is the church fence, the farm fence, the country fence and every conceivable description of fence; and we make all of them. Now, if you'll take hold of this thing and help me introduce it here, we will make it interesting for you."

"Well, that seems plausible, and I would like to converse further with you about it, but you will have to excuse me now, as I am looking for a gentleman from Cincinnati, and must go to the train now to meet him."

"Certainly, certainly," said Detective Grannan. "I am stopping at the hotel down here and will be glad to confer



with you there at any time convenient to you. When shall we meet and talk further on this question?"

"Let me see. I shall be pretty busy very likely all the afternoon with my friend, and—well, I think to-morrow morning, say ten o'clock."

"That will suit me," said the Captain.

"By the way, I've forgotten your name if you mentioned it. For whom shall I call to-morrow?"

The Captain handed him one of his cards and waited for results. Mr. Paige read the card carefully and gradually his eyes lifted and wandered up to the smiling countenance of Detective Grannan. He wasn't long in catching on.

"Shake," he said, "it's on me. What'll you take?"

They went to see Paige's attorney, Geo. W. Burnell. Mr. Paige introduced the Captain as Mr. Bronson, a fence man, and he sang the attorney the same song. When he got through, the attorney, who was to be employed to attend to all the litigation for the new business, and draw up the papers for the organization of the company had become much interested and promised his hearty co-operation.

Then he asked Paige, by way of side remark, whether Grannan had shown up yet.

"I expect him here this evening," said Paige, evasively.

As they were about to leave "Mr. Bronson" invited Burnell to call on him at the hotel and handed him one of his cards. Burnell glanced at the card hastily at first, then looked more closely, then read carefully, and as the truth of the joke gradually dawned upon him he exclaimed:

"Well, this is good—very clever."

"I guess we've got the right man, don't you think so?" said Paige.

"He'll do," said the attorney.

It was then arranged that Captain Grannan should be

known there publicly as an electric light man, and should go under the name of Bronson, and during his whole stay in Oshkosh, and all his subsequent visits there, and even yet he is known there as Bronson.

The first thing done was to discharge all the other detectives working on the case. Then Mr. Paige told Grannan all that had taken place at that end of the line. Immediately after the tragic death of his brother, the unnatural wife took his watch, an elegant gold hunting case, of great value, and sold it to a banker for one-half less than C. C. Paige would have given for it. She would not let him have it for spite. She took his diamond from his shirt and sold it almost before his body was cold. A splendid stallion that cost him \$4,000 she let go for \$625. Then she attempted to have herself appointed administratrix of his estate. She could not give bond and so that failed. C. C. Paige, as next of kin, was then appointed and qualified. Of course, she claimed all of his vast estate. They believed her an adventuress, doubted the legality of their marriage, and proposed to investigate her record from beginning to end.

Detective Grannan now learned, for the first time, the enormous value of the property for which they were going into litigation. The task of saving nine million seven hundred thousand dollars from the clutches of an unworthy adventuress, a schemer without soul or conscience, devolved on him. The weight of the great responsibility was heavy upon him, especially when he knew how slender were the threads upon which hung the possibility of success, and how easily all his work of investigation might be defeated by finding that every step in her proceedings was done under cover of law. However, he now went to work with a determination to win, if success were possible.

From this point then a new start was taken in unfolding

this remarkable case; a case involving many millions of money, and months of hard labor, fraught many times with danger and excitement; a case that required the work of many men, and took Captain Grannan and members of his force into almost every State in the Union, and in which a number of young detectives received their first careful drilling in their chosen profession.

## VIII.

### TRAPPING A WOMAN.

Detective Grannan carefully compared notes with attorney Geo. W. Burnell and got all the legal points of the case to help in formulating his theory and laying his plans for action. A circumstance that occurred early in the legal proceedings and which was the first almost positive proof of the fraudulent character of the widow of Simon B. Paige, lately Mrs. Mary E. Fagan, is worth relating, as it was an important part of the information that Detective Grannan got from attorney Burnell. In addition to the unseemly haste of the woman, as related before, to convert Mr. Paige's property into money, she went into court at Davenport, Iowa, where he owned large property, and got an allowance of \$300 per month pending the settlement of the estate.

Then she went to Duluth where his possessions were equally large and obtained an allowance of \$250 per month. She then went to Oshkosh and attempted the same thing, and as stated before, to have herself appointed administratrix of the estate. When the application came on for hearing at Oshkosh, Mr. Burnell took occasion to put a few questions to the woman who was claiming so much:

Burnell—Mrs. Paige, I believe you were married once before your marriage with the late Mr. Paige?

Mrs. Paige.—Yes, sir.

B.—What was your husband's name?

Mrs. P.—Wm. E. Fagan.

B.—Is Mr. Fagan still living

Mrs. P.—No, sir, he is dead.

B.—How long since?

Mrs. P.—About three years.

B.—Where did he die?

Mrs. P.—At Santa Fe, Texas.

B.—What's that? Did you say Santa Fe, Texas?

Mrs. P.—Yes, sir, Santa Fe, Texas.

B.—Were you there when he died?

Mrs. P.—No, sir.

B.—What evidence have you of his death?

Mrs. P.—Well, I have letters stating that he was dead, and also the undertaker's certificate showing that he died and was duly interred.

B.—Have you that certificate with you?

Mrs. P.—No, sir, I have not.

B.—Can you find it?

Mrs. P.—I think I can. I think I have it among my papers.

B.—(To the Court.) If your Honor please, I would like the witness instructed to bring this paper into court.

The Court.—You may proceed with the examination at present and the witness will bring the paper into court this afternoon.

B.—Now, Mrs. Paige, you corresponded with your husband when he was in Santa Fe, Texas, didn't you?

Mrs. P.—Oh, yes, frequently.

B.—About how frequently?

Mrs. P.—He used to write every week.

B.—And I suppose you as a faithful wife answered his letters?

Mrs. P.—Yes, sir, I wrote to him sometimes two or three times a week.



B.—And his address became very familiar to you, didn't it?

Mrs. P.—Oh, yes, I should think in writing it forty or fifty times I ought to become pretty familiar with it.

B.—Well now, Mrs. Paige, will you be kind enough to take this envelope and address it with this pen just as you used to do when your husband was down there where he died?

Mrs. P.—Certainly.

And she took the pen and wrote:

MR. WM. E. FAGAN,  
SANTA FE,  
TEXAS.

B.—Now, you are sure this is right?

Mrs. P.—Yes, sir.

B.—And this is just as you have written it scores of times before—Mr. Wm. E. Fagan, Santa Fe, Texas—is it?

Mrs. P.—Yes, sir.

The excitement and confusion among the crowd of interested spectators was at this point very great.

Mr. Burnell then addressed the Court:—Now, if your Honor please, I submit this envelope on which this woman has written the address of her first husband, Wm. E. Fagan, Santa Fe, Texas. Your Honor heard the positive character of her testimony on this point, and you know, too, that there is no such place as Santa Fe, Texas.

“Well, Santa Fe, wherever it is; Santa Fe, wherever it is,” fairly shouted Mrs. Paige, with her brazen facility for turning at the critical moment, if she saw she was wrong or about to be caught.

But the incident sadly impaired her case. The judge laid the matter over for further evidence, and after several days she brought into court a paper purporting to be the death or burial certificate. It was crumpled and torn and bore little

evidence of genuineness. As stated before she could not qualify as executrix and the judge only allowed her a small sum monthly here in view of the uncertain attitude in which she stood before the court and the people. C. C. Paige was appointed administrator, and then began a fight for the property.

Detective Grannan got all the possible information about the woman, her peculiarities of speech and action, style and subject matter of conversation, etc. A very important piece of information he dropped onto by accident—important, because it was the key that unlocked the future of the case for him. One day when Mrs. Paige-Fagan was conversing with Mrs. John Paige, a brother's wife, the latter remarked the regularity and beautiful pearly whiteness of Mrs. S. B. Paige's teeth. "Are they natural?" she asked. "Oh, no," responded the widow, "they were made by one of the finest dentists in New York."

## IX.

### PULLING A TOOTH.

There being apparently nothing more to be learned or accomplished in Oshkosh Captain Grannan returned to Cincinnati to prepare for the work before him. His theory of the case had already been formed. He would first visit New York and learn the history of the Libbys and Fagans there. He must have some excuse to visit the metropolitan dentists. He went up to Dr. Woodward, Sixth and Race, an accomplished dentist, and said:

"Doctor, I want a tooth drawn."

"All right, sir, take a seat."

The doctor made an examination, but seeing nothing wrong he said:

"Which tooth is it you want extracted?"

"Well, I don't know as it makes much difference, this one will do as well as any," pointing to one on the sub-maxillary.

"But the tooth is perfectly sound."

"I know it. That's all right. You pull it out."

"But, my dear friend, you will ruin your mouth. I never pull a tooth unless it is absolutely necessary."

"Well, I insist on having it out, and if you don't do it I will have to go some place else."

After further remonstrance and assurance that the Captain was in earnest, the sound tooth was duly extracted, and the cavity can be seen to this day in the Captain's mouth.

## X.

### WORKING THE DENTISTS.

In a few days after this, Detective Grannan was in New York. In his pocket was a good likeness of Mrs. Mary E. Fagan, alias Alice Pierrepont, now Mrs. Simon B. Paige. He first called upon his New York correspondents, Fuller's Detective Bureau, 481 & 483 Broadway, and made known the nature of his visit, and the importance of his case.

Mr. Fuller gave his personal attention to the matter, and worked in conjunction with Detective Grannan, accomplishing some splendid results. They first started out to visit the dentists. Detective Fuller directed their course to all the first-class artists in this line, and Detective Grannan went in and buzzed them something after this style:

"Doctor, I want to get a tooth inserted. I wish you would look at the cavity and tell me how long it will take to do the work, and about what it will cost."

"All right, take a seat."

Then the doctor made an examination and stated terms, etc., for different classes of work.

"Yes, that's reasonable. The time required, I'm afraid,

may be too long for me, as I don't expect to be here long. I had a friend who had some elegant work done here some time ago, perhaps a year or over, and she recommended you so highly—I think you are the dentist—that I determined to call at any rate. Mrs. Fagan, I suppose you remember her?"

"Fagan, Fagan, let me see; no, I don't."

"Perhaps this photograph may freshen your recollection."

A look at the photograph brought no signs of recognition. Then the Captain said, "Possibly I have gotten the name of the dentist wrong, but that won't matter, as I like the appearance of you and your work, and if I find I have time for the work I shall certainly come back here, especially as it would now be futile for me to attempt to find my friend's dentist."

Then he got away and the same racket was gone through time after time, and day after day was put in at this business until thirty or more dentists had been interviewed in New York City, without results. Then they despaired and went over to Jersey City, and twenty to twenty-five tooth-carpenters of that town were put through the same catechism. This work brought nothing. They then went over to Brooklyn. About the twentieth dentist he struck was Dr. Oran Cobb.

"Mrs. Fagan? Oh, yes, I remember her well. Have you come to pay her bill?"

"Well, not exactly," said the Captain. "Does this picture resemble the lady you speak of?"

"That's the one. That's the lady."

"Do you know where she lived?"

"Oh, yes. She lived at 379 Pacific Street, in this city. I understand she is married now, and married rich; they say a western millionaire. I guess she is abundantly able to pay everything she owes if she will."

Further talk and inquiry led Dr. Cobb to refer Detective Grannan to his wife, who knew them much better than he did



and who could no doubt give him valuable information. Mrs. Cobb was then out. Detective Grannan did not disclose his real character or the nature of his business, and promising to call further about the tooth, he left. Desiring to see Mrs. Cobb alone he watched next day till he saw the doctor go out, then he went to the house and rang.

"Is Dr. Cobb in?"

"No, sir, he's just gone out."

"Is Mrs. Cobb in?"

"Yes, sir."

"I would like to see her, please."

He was asked to wait in the parlor till she came. He introduced himself as one of her husband's patients, and got to the subject by stating that the doctor had referred him to her as better posted. She was very pleasant and obliging. She knew Mrs. Fagan well. She had lived at 379 Pacific Street, with her mother and sister. Before coming here they had rooms over Mr. Cox's silver plating establishment on Fulton Avenue, Brooklyn, and also at Elm Place, a very aristocratic quarter, and their house they had furnished in very elegant style. Mrs. Cobb manifested so much good sense in the matter, and was so courteous and obliging that Detective Grannan took her to a certain degree into his confidence, and told her something of the real nature of his business, speaking of himself as an attorney looking the matter up in behalf of the Paiges.

She was always true to the trust and rendered him much valuable service in his work.

## XI.

### ON THE TRAIL.

With the assistance of Mrs. Cobb and detectives, principal of whom was Detective Frost, of 64 Orange Street, Brooklyn,

Detective Grannan accomplished a great deal of general work on the case which was only preliminary to the real substantial work to be done later on. He first got a sort of general outline of their movements in Brooklyn and New York. While living at 379 Pacific Street, they rented the whole house, a three-story brick, and sub-let rooms. Mrs. Fagan and her sister, Laura Libby, worked in New York at Buttrick's pattern establishment. Before coming to this place they had lived on Fulton Ave., Brooklyn, over Mr. Cox's plating establishment. Here they had frequently been hard up, and had asked Mrs. Cox not to throw any thing away that she might have left from the table, as they would be glad to have it; she gave them many things in this way.

When they left 379 Pacific Street, they went to 25 Elm Place. This is a very aristocratic quarter, and the question was, how could they get money to furnish the house up in a style to correspond with the locality? The place was visited. The lady living there knew nothing of them, but referred to the next door neighbor, who had resided there a long time. This lady remembered the parties well. When they came they furnished the house in good style with new furniture. She thought they were finally put out of the house and the furniture taken away from them.

Detective Grannan then knew they must have bought the furniture on time. He visited a number of furniture establishments, selecting those that sold on payments. About the sixth house he struck was Carr & Murray's Myrtle Ave. Here he found they had contracted for furniture, curtains, carpets, and, in fact, everything to fit up a house. They bought only the very best goods. They represented themselves as being wealthy and having considerable money in the West, which they received in instalments. Their smooth talk did the work and they got the stuff, paying only fifty dollars down. Mr.

Carr's statement, made further on, is very interesting reading.

Captain Grannan could not imagine where they got the \$50 to pay on the furniture. He remembered that he had heard talk of a piano in Cincinnati, but so far no trace of it in Brooklyn had been discovered. He visited the freight offices of the proper roads and discovered that a piano had been shipped from the west. What had become of it? The piano houses were then visited in regular order, and finally one was found that remembered the people and the piano. They had loaned them \$75 on the piano. The name of the firm was Bance & Benedick, 56 Center St., and the loan was made October 13, 1881. Other articles of furniture were also put up here. The piano was manufactured by the Grand Round Piano Co., of Cincinnati, Ohio, and was No. 1,020. The late T. T. Haydock was President of this Company, and he afterwards told Detective Grannan that the piano was bought of them on time, and when they moved it away without knowledge of the Company, and they were about to take action in the matter, the affair was compromised by some friend of the Libbys. Thus the \$50 was accounted for.

The reader can imagine the arduous character of all this work. It was all tedious and expensive. Weeks were spent in accomplishing it all. Detective Grannan really made two or three trips to New York before he had all the information necessary from that point. The great result of his work there he determined to put in the form of depositions of different parties. These depositions contained matter of the most damaging and startling character.

## XII.

### INCIDENTS OF THE SEARCH.

One or two incidents of the work of a rather amusing character occurred worth relating. Friends of the Libbys

spoke of a picture that hung in the Libby mansion, now 379 Pacific Street, to which they had returned, that was believed to be a likeness of the original Fagan, Mrs. Mary E. Fagan's first husband. Detective Grannan wanted that picture. He laid his plans. They rented rooms. Mrs. Wyman, a very intelligent woman, who had been in better circumstances, rented the third floor rooms back and front from the Libbys and it was through her that he got most of his points. Mrs. Wyman was an old time intimate friend of Mrs. Oran Cobb. This completed the chain.

Detective Grannan took Detective Frost and went to inquire for rooms. The plan was, when Grannan got the old woman up-stairs to show the rooms, Frost was to slip in and get the picture off the wall. Copies of it would be taken and the original returned. They rang. Up, out of the basement came the dirtiest, greasiest, most diminutive and God-forsaken specimen of feminine humanity that ever crawled in the sunlight. It was old Mrs. Libby. She seemed suspicious; said her rooms were all full, and the scheme to get into the house failed entirely. Detective Grannan talked to her on different matters nearly half an hour and worked every racket his mind could suggest, but it was no go. They tried it again some days after but it wouldn't work. Then Detective Grannan went to a grocery near by where he had become somewhat acquainted, and borrowed a baby. With this little thing half clad, in his arms, he again rang the bell. The old woman came, and he began talking about rooms. She had none—they were all full. Then he pinched the baby and it began to cry, and he appealed to her that his poor baby was sick and cold; please let him come in and warm the poor thing.

"No, sir. I know ye. You can't get in here."

So he gave the thing up. She seemed to have got on to him some way, and all efforts to get into the house were unavailing.



But Mrs. Wyman had seen a man come there frequently who resembled the picture on the wall. She believed it was Mrs. Fagan's first husband. Detective Grannan was satisfied that Fagan lived. If alive, he was determined to find him. Much progress had been made, but this point was important. Fagan must be found, if alive.

## XIII.

## THE SEARCH FOR FAGAN.

After months of this exhausting labor in tracing the record of the Libbys and Mrs. Fagan in the East, and having the affidavits of over twenty people who had known them personally, or had business dealings with them, Detective Grannan returned to Cincinnati. He had a load of evidence, as will be seen further on, that would shake the faith of a Paul in all womankind. He now determined to trace down and find, if possible, Wm. E. Fagan, whom he believed to be alive. He again visited the neighborhood in which the Libbys had lived on Barr street. The great publicity given to the case rendered it somewhat easier now to find people who knew and remembered them. Almost by chance he came upon one, Geo. W. Ryan, a dealer in patent medicines; that is, he furnished agents with all sorts of nostrums, and he knew almost every street fakir in the country. The Captain became acquainted with him, drank and smoked with him; complained of rheumatism in his shoulder; asked if he knew of anything that was good for it. Ryan knew a number of things and recommended them.

"There is one man that I know could cure me, if I could find him."

"Who is that?"

"Wm. E. Fagan. He sold Raven Oil. But I guess he's dead."

"Dead? Hell! I saw him not six months ago. He's as live a man as you ever saw. Why, do you know Fagan?"

"No, I don't know him," said the Captain, "but I have heard frequently of his oil, and I believe it will cure me."

"Why, I used to be with that man every day," said Ryan. "I remember one night we went to the Grand Opera House, and he pointed out one of the Pierrepont girls who was in the ballet, and said she was his wife. He said he could not live with her on account of her mother. She was a regular old vixen. But he loved the woman, notwithstanding she had mistreated him and been untrue to him, and would take her back. After the opera was over we followed them home. She had a sister who was with her in the ballet. They lived away down in the West End, some place on Barr street, I think. Next day he sent her a letter with money. She kept the money but refused to see him."

"Well, now, I'll tell you," said Detective Grannan, "I am somewhat interested in this man, and would like to know something of him. Where could I find him?"

"I don't know where he is now. Let me see. I'll tell you a man that ought to know something about him. That is Dr. Phil. T. Williams, up on Sixth street, near John. He treated Fagan and took considerable interest in him. I wouldn't wonder if he knew just where he is."

Detective Grannan then visited Dr. Williams. He had taken considerable interest in Fagan, and the Captain found no difficulty in drawing from him all he knew in the case. Fagan had given him his whole history. The only part of it that we are particularly interested in is his connection with the Libbys. His story to Dr. Williams was something like this:

Old man Libby called himself a doctor. He made Raven Oil and sold it all over the country. When "Dr." Libby died,

the enterprising widow and daughters advertised for some gentleman of means to take charge of the business and run it. Fagan answered the advertisement; their description of the profits to be made were glowing and seductive; he went in. He soon became smitten with the daughter Mary, and married her, Dr. W. thought somewhere in Illinois. They traveled all over the country making and selling the oil. Cleveland, Pittsburg, Indianapolis, Fort Wayne, Louisville, Memphis, Cincinnati, in fact, almost every important town in the country they had been in and done business. The old woman got to drinking and the girls became too familiar with strange men, business was neglected, and finally things got so bad he could not stand it. In Cincinnati his wife and her sister got struck on the stage, and he lost all influence over her. In fact, the old woman would not allow him to come near the house. He claimed to love the woman still but said the old woman caused all the trouble. With these pointers, Detective Grannan started out. He first went to Indianapolis. He visited all the Fagans he could hear of within a radius of fifty or sixty miles of the city, but could find no relatives of Wm. E. Fagan.

At Fort Wayne he found a man who knew Fagan, was certain of it. He started out with Detective Grannan to help trace him down. They traveled over two hundred miles together tracing their man, but could not come up to him. Then the "pointer" gave out, and the Captain followed the clews to Kansas City, found the man they had been after for weeks, and he was the wrong man.

Then he struck further South, visiting Quincy, Peoria, Springfield and Pekin. He found traces. The Libbys had been there years before; had lived there. He found some of the original circulars used to boom the great, original and only Raven Oil, the great specific for all ills incident to humanity. Here he found the record of the marriage of Mary Libby and

William E. Fagan, and obtained a copy of the license. They were married on the 9th day of April, 1871, by the Rev. Jas. W. Harvey, Pastor of the Methodist Church at Pekin. Nobody knew anything of them now. Then he came East again and visited Cleveland, Pittsburg, going as far East as Harrisburg, Pa. Then back to Columbus, Xenia, Dayton, Zanesville and Toledo.

Sometimes he heard of their having been there long before, but nobody knew anything of them now. Then a long trip was taken almost across the continent, and the town of Santa Fe, New Mexico, was visited. This was done as a matter of precaution, as Mrs. Mary E. Paige-Fagan had testified that her first husband died at Santa Fe, Texas, and it was barely possible she made a mistake in naming the State. No Wm. E. Fagan had ever been there dead or alive. No burial permit, no record of any kind of such a man could be found. She had lied, which was pretty certain before.

Detective Grannan then returned to Cincinnati. He had in the meantime, of course, notified all the members of his company throughout the country, who were not nearly so numerous then as now, of the search for the man, and sent them descriptions. Shortly after returning home he received a communication from John B. Axline, a trusted member at Nashville, Tenn. He thought he had the man located and wrote for full particulars. Captain Grannan could not send a photograph but he had a most elaborate description, and gave instructions how to positively identify him. Detective Axline worked the matter well. One of the best evidences outside of his name, which he did not attempt to conceal, was the fact that he still sold Raven Oil on the streets. Axline became acquainted with him, gained his confidence, told him some of his own family troubles, how his wife's mother had made his home a hell, etc. This drew Fagan out and he told his story.



It was right. Then he made affidavit of the facts learned and sent it to Detective Grannan.

#### XIV.

##### AFFIDAVITS.

A final trip was now made to New York. A score or more of affidavits were taken here of friends, acquaintances and business associates of the Libbys and Fagans. The Notary who officiated in this work was Mr. Albert W. Bailey, Attorney, son of a retired silk merchant of the City of Churches. He did his work thoroughly. We have not space enough to give these depositions in detail. Only the salient points of the most important ones follow:

Mrs. Wyman, a very intelligent lady, who had evidently seen better times, occupied, as stated, the third floor of the Libby residence. They used to visit back and forth frequently. She deposed that Mrs. Fagan had told her that she was going to marry Paige, a western millionaire; that she cared nothing for him, only for his money, and that she didn't care if he died in an hour after they were married. Their hateful and cruel disposition was shown by their conduct when Mrs. Wyman's little child lay sick of scarlet fever. The Libbys fumigated the house with sulphur until it was almost impossible to live in their rooms, as the fumes naturally ascended. When the child died, Mrs. Fagan and the old woman clapped their hands when the little thing was carried out to the hearse. Mrs. Wyman noticed that Mrs. Fagan was growing stout. Her fleshiness increased and her visits to the third floor decreased. Isn't there something the matter? Oh, no, I'm eating too many potatoes. After awhile, she was one day taken suddenly and violently ill. Mrs. W. was called down to assist in applying hot cloths. When she got up in a few days, she

was very pale and the abdominal superfluity of flesh had all disappeared—superfluous potatoes all gone.

Finally a large, fine looking man appeared. The Fagan children said it was their uncle, but it turned out to be Mr. Paige. They somehow managed to conceal from him their extreme poverty. The wedding took place, and he then ate his first meal in the house. The meal was eaten in the basement kitchen, on an old and extremely plain kitchen table, covered with a ragged piece of oil cloth.

After the marriage they all went away, and soon she re-appeared with the most elegant clothing; half a dozen fine dresses, splendid jewelry and diamonds, and seemed to be reveling in luxury. Mr. Paige, discovering the extreme poverty of his new wife, took her out and spent \$3,000 on her before they left New York. She always heard them speak of Brooklyn as their home, and believes they always considered it so.

Mr. Cox deposed, among other things, that the two girls, Mrs. Fagan and her sister Laura went away every morning and came back at night. That they frequently asked for the leavings of his table, and that the children of Mrs. F. were almost starved. She told Cox how she had laid the wires to catch the western millionaire; how she saw an account of his wife's death, and wrote him; how he got mashed on her style of correspondence and came to see her; she said she cared only for his money, and when she married him she would be rich, and would buy large orders of goods from him, to repay him for his kindness. He also deposed that Mrs. Fagan made indecent exposures of her person in his presence. He always considered them permanent residents of Brooklyn.

Mr. Carr, of Carr & Murray, furniture dealers, of whom they bought the goods to furnish up 25 Elm Place, deposed that they represented themselves as rich, having large property west; that they received money in installments and could

pay best that way; they bought several hundred dollars worth of furniture and paid \$50 cash; when the payments came due they could not pay. He bore with them patiently and long, but finally concluded they never meant to pay him, and notified them that they must pay or lose the furniture. Then Mrs. Fagan took him into her parlor and her confidence. She told him her plans; what she was trying to accomplish; that she was really poor; that she was about to marry a western millionaire, and it was absolutely necessary to have respectable furniture, when he should come on to see her.

She pleaded that they were already engaged and as soon as the wedding took place she would have plenty of money and would pay him. Seeing that this did not meet with his favor, she reminded him that he was a single man and suggested that he take a room in her house; she would be everything to him that a wife could be, and would also amply remunerate him in cash when she married the millionaire. He refused her generous offer, as it required money to run his business, and as she could not pay he was compelled to eject, which he did. He always understood that they came to Brooklyn to reside permanently.

Twenty-five or more other affidavits were taken, all tending to show the bad character of the family; the scheme of Mrs. Fagan to catch Paige, and the permanency of their residence in Brooklyn. During all this long period of hard work, many opportunities were afforded to see the inside of Metropolitan life. The club houses and theaters were frequently visited; Coney Island and all the neighboring summer resorts and watering places were taken in, thus mingling business with pleasure, having a good time, seeing the world in its center of greatest activity; observing the depths of crime and degradation in the slums, and the crime and splendor in the gilded halls of the lascivious rich; an experience which is in-

valuable to a detective—and all the time working to successful issue this great case, in which from the very start it was “diamond cut diamond.”

With this mass of evidence Detective Grannan now reported at Oshkosh. The plan of the Paiges briefly was to establish the bad character of the woman; to show that their brother had been the victim of the basest deception; that her marriage with him was in reality a monstrous fraud; that her first husband was still living, and that her divorce from him, obtained in Cincinnati, was fraudulent and without warrant of law, and, therefore, her marriage with Mr. Paige was in the eye of the law illegal, and she was without just, equitable or legal claim to any part of his estate; that when she applied for and received her decree of divorce, she was a *bona fide* resident of New York, and under the law of Ohio not entitled to receive a divorce in her courts.

## XV.

### A SLEIGH RIDE.

After Detective Grannan had made his report, a little incident occurred of rather an amusing character worth relating. C. C. Paige, Attorney Burnell and Detective Grannan had been in consultation, and had gone entirely over the mass of evidence he had accumulated. “Now,” said Grannan, “I want to see this woman. I’ve done a great deal of work on this case, and have never seen her; I think I shall go down and have a talk with her.” Both Paige and Burnell protested. It would not do. He might want to trace her in the future. Moreover, they didn’t believe he could do it. She had grown reticent and non-communicative of late, and would not receive him.

“Well, I’ll go the oysters for the party,” said Grannan, “that I’ll not only see her and talk with her, but take her out



sleigh riding before sundown to-night." "We'll go you," they said, and he prepared to make the call. Having learned her number, he rang the bell, and the door was opened by Mrs. Paige, alias Mrs. Fagan, alias Miss Mary Libby, alias Miss Alice Pierrepont, in person.

"Have I the honor of addressing Mrs. Paige?" said the bland Captain.

"That is my name."

"I represent the *Herald*," handing her a neatly written card prepared for the occasion, "and would like to talk with you about your trouble with the Paiges."

"Yes, take a seat. I'll tell you frankly," she went on, "while I feel quite friendly toward the *Herald*, I have been so badly treated by some of the papers that I have just about decided to have nothing more to say to anybody about the matter, and my attorney advised me the same way."

"Our people," interrupted the Captain, "have always been of the opinion that the Paiges were using the enormous influence of their wealth and social position to defraud you of your just rights in this matter, and would be glad to make public your statement of the case, feeling that it is only simple justice that your claims should be as fully and fairly understood as those of the other side."

"I notice the *Herald* has given some very fair accounts of the matter, and if you will promise me not to publish anything from the other side, I will give you my version of the story."

"We have already published all of their story that we ever expect to, and I assure you your statement will stand alone."

Then she gave him a long account of the case from her point of view, much of which Detective Grannan knew to be absolutely false. He took copious notes. When she got through she said, "You know I am publishing a book?"

"Yes, I heard you were; when will it be out?"

"Soon, I think. My publishers speak highly of it, but said it needed some finishing touches; so I have written them. See here," producing a bundle of manuscript. "See that, 'At last in the Toils of the Villian.' That's that rascal Grannan. Why, he's perjured himself a thousand times, and got a dozen or more people in New York and Brooklyn to swear to lies, just to beat me. But I'll show them they haven't got me down yet, and that man Grannan, I'll have him in the penitentiary yet. He's a slick villain. He's done enough to down any woman that hasn't pluck and perserverance, but I'll show him he hasn't downed me yet."

Detective Grannan expressed his sympathy and hoped she would be successful in her suit, and especially that the rascal Grannan would get his just deserts; said he was comparatively a stranger; was very much interested in her case, and would like to hear more of it, etc., and would be delighted to have her accompany him in a sleigh-ride around the city and point out to him the principal objects of interest. She thanked him and accepted, and in an hour they were flying behind foaming steeds along the snow-covered streets of Oshkosh. As he went dashing past the office of Burnell, where he and Paige were waiting, a quiet signal showed their recognition that he had won the wager. It is scarcely necessary to add that the interview never appeared in the *Herald*.

## XVI.

### THE FALL.

The evidence damaging to her case was so massive and voluminous, so thoroughly covering every point of her variegated and malodorous career, that she saw the futility of fighting it. The papers got hold of some of the facts and published them. She sued the New York *World* for \$250,000 for libel, for publishing some facts contained in the affidavits.

Hon. Roscoe Conkling was engaged by the *World* to defend. The Cincinnati *Commercial* was sued for a like amount, and Wm. M. Ramsey was retained as the defendant's counsel. Neither of these suits ever came to trial, as she had no money, and her case had been so badly crippled that it seemed hopeless, and no attorney cared to take hold of it on a contingency.

Under all these depressing and discouraging circumstances, this woman of brilliant conception and daring execution weakened, and gave up the contest. The little bare-footed girl that earned the sobriquet of "Pop Mary" by selling popcorn on the streets of Davenport, who had been jostled against the cold, heartless, and wicked world from earliest infancy, who knew nothing but scheme to force a living out of the stingy world; this woman, thus demoralized, educated on the street, in the ballet, behind the scenes; with an amazing adherence to purpose once formed; an unscrupulousness of method equaled only by her malignity of purpose; this brilliant, scheming adventuress at last succumbs to the superior prowess of a more wary, sagacious and powerful mind.

Discouraged, without money, without hope, she fell more suddenly from her sublime height of wealth and social position than she had risen to it; her career had been that of a magnificent meteor, bursting out brilliantly upon the public gaze, cleaving the social horoscope with swift and dazzling splendor and sinking ignominiously into the oblivion of social obloquy, leaving only a fast fading recollection of her unknown origin, her immoral forces, her demoralizing meridian brilliancy, her sudden and disastrous fall.

She dropped quietly and suddenly, from public view, and none of her old acquaintances now know what has become of her. Let us hope that the admirable energy of this brilliantly endowed woman has been directed into a more noble channel, and that she is now employing her mental and physical forces to elevate rather than drag down mankind.

## CHAPTER VII.

### SWINDLING GAMES AND TRICKS.

THE devilish ingenuity and fertility of the depraved human mind have produced in all ages and countries a marvelous growth of schemes, tricks, games and devices for obtaining money from people without giving value received. In no age or country has the production of these nefarious traps for the unwary been more luxuriant than in the United States now.

We design in this chapter to give such description of the most important of these as will put every one upon his guard. A careful study of the following pages and proper regard for the principles laid down will save many a man hundreds, perhaps thousands, of dollars.

#### GENERAL PRINCIPLES.

It is an old and trite admonition, but a sensible one, and we repeat it here with emphasis: *Never bet on another man's game.*

The reason for this principle is obvious. When a man starts out with a game or a trick of any kind, he proposes to make money. He takes no chances. With him it is only a question of getting suckers to bite. He is bound to come out ahead. The sucker is sure to get the worst of it. In most of the games now practiced, the victim has no possible chance of winning. In some games of chance, there is a small margin of possibility that the player may win something, but the usual ratio is from ten to one to a thousand to one against his winning anything. Let these games alone. No man that ever played them habitually came out ahead in the end.



Never think for a moment that a stranger is going to give you money. They will tell you this. They will tell you that some one is going to win this money and you might as well have it as anybody. They will profess a liking for you and say they would a little rather see you get it than any one else. But you must always put some money up to get it. Don't be sucker enough to get caught on such cheap, improbable talk as this.

If you are fool enough to play at another man's game and get caught, as you surely will, *always* "*squeal*." These public leeches go about their nefarious work on the theory that a man's pride will prevent him from reporting his loss or making an outcry. If the victim promptly and vigorously protests and threatens arrest, the chances are they will disgorge their ill-gotten gains.

There might be circumstances when it would not be politic to attempt to recover your money. If you have been inveigled into a den of thieves and thugs, desperate men, who have swindled you out of your money, and no police or other assistance is at hand, it would probably be better to accept the situation and retire as easily and gracefully as possible, for the chances would be, if you should begin a quarrel for the return of your money and attempt to make an outcry, that you would be quickly beaten into insensibility and thrown into an alley—a very mysterious case of sand-bagging and robbery which the police would never unearth.

But the best plan is never to be drawn into such places. Never take up with a strange man in the city or with one who claims to know you, but whom you can not remember. Better take the risk of offending some "old friend of your father" than to be run in and robbed by a banco shark.

With these preliminary remarks we proceed to explain a few of the common games practiced at the present time.

## BANCO.

This scheme is familiarly called bunko. As practiced in those modern days it requires for its successful operation boldness and cunning, a shrewd insight into the weakness of human nature and a skillful manipulation of the keys of human desire, that ought to make a man rich in an honest calling. It was introduced into the mining camps of California forty years ago as a game of chance, but resembled then more nearly a modern game of faro, in which there was a chance of winning something occasionally. It has been entirely changed since in its working, all elements of chance having been removed in fact, although they appear to the player to be as strongly in his favor as ever. The "lay out" is about the only feature of the game that remains the same. Without going into the history of the game further we will attempt to give a description of it.

Four men generally work banco. They require a room with a table or desk large enough to accomodate the "lay out." This room is usually secured in some quiet part of the city and is only taken by the day or week, for as soon as a few victims are fleeced they usually move to other quarters. The furniture must be elegant in style and a business-like air must pervade the place. The appearance must be strictly first-class, for they are after first-class people, who would at once feel out of place when brought into dingy apartments. They must have plenty of money and give the impression that they are a powerful financial institution. Some who play for smaller game do not need so expensive an establishment.

The four men are known as the "feeler," the "patterer," the "scout" and the "banker." The "feeler" watches the hotels, ascertains who has arrived, where from, his probable financial condition, and usually makes the break at cultivating his acquaintance. The "patterer" follows up the "feeler,"

takes his report and uses it to ingratiate himself still further into the stranger's confidence. The "scout" is the outlook, who keeps the "banker" (who is the inside man who runs the game) apprised of the approach of the "patterer" with a victim.

The scheme is worked then as follows:

The "feeler" first ascertains the name of the party and his home. Then he consults a *Bank Note Reporter* or some publication containing information about the banks of the town from which the stranger comes. He learns the name of the banks of the town and the names also of their officers. All these he reports to the "patterer," who takes up the work at this point. Sometimes a likely-looking victim is seen on the street by the "feeler," and desiring to start business or "raise the wind" at once, he approaches him with a familiar air and exclaims: "Why, how do you do, Mr. Thompson? How's the hardware trade up in Greenville?" And then rattles on in a familiar way about half a dozen things that his fertile mind suggests. When the stranger gets a chance he withdraws his hand from the friendly grasp of the gusher and says: "You're mistaken this time, young man. My name is not Thompson, but Goodhue, and I'm a brewer from Singleton." "What! Why, I can't be mistaken. If you are not Thompson you are his double. Well, well, I beg your pardon, sir, for this unseemly familiarity with a stranger, but I can scarcely believe yet but what you are my old friend Thompson. Good-day, sir."

Then the "patterer" who is always near at hand is joined and a report is made. He takes up the trail and watches the victim until a reasonable time has elapsed, so that the first incident will probably be forgotten, and also till the party gets in the neighborhood of the Banco den if possible. Then he manages to meet the victim and exclaims: "Why, Mr. Good-

hue, how do you do? How is everybody down at Singleton? Well, this is surely an unexpected pleasure."

"You have the advantage of me," falters the Singleton brewer.

"Why, don't you remember me, the nephew of John Singleton, President of the First National Bank of Singleton?" There is a shade of sadness in his tone at the thought of having been forgotten so soon. If this is a lucky hit he is soon able to convince Mr. Goodhue that he has met him before; if he shot wide of the mark he probably has more trouble, but rattles on, drawing out little by little and putting things together in a shrewd way until he accomplishes his end and confidence is established and they walk together. A social glass is suggested. If that is accepted he steers him to a place where he will be properly dosed for the game. If the drink is declined they dine together. The "patterer" grows confidential and tells him about his studies—he is probably attending school—and his prospects, where he thinks of locating, etc. At the proper time he confides to him that he has had a little streak of good luck. That he took a dollar of the last monthly allowance sent him by his uncle John and invested it in a lottery ticket and it had drawn a prize; that in fact he was just on his way to the office to have it cashed when he met him. He shows the ticket and remarks that he would be glad to have his friend walk down with him, the place is not far, and he would see whether there was anything in it or not. This is interesting and they walk down to the den together. The "patterer" produces the ticket and hands it to the "banker" asking: "Is this the place where these tickets are cashed?"

"If it's entitled to a prize it will be cashed here," responded the banker, with pompous business air, and carefully begins the examination of a large docket. Finally he discovers the number and carefully comparing the ticket with the book he



announces: "Yes, sir, this is a fifth part of a ticket that drew \$10,000 at our last drawing. It entitles you to \$2,000, and a chance in our special drawing." Then he goes to the large safe and gets the money and counts it out to the young man, and gives him another ticket.

"Not so bad for \$1," suggests the "patterer" quietly to the sucker. "Don't say anything to Uncle John about this, he might not like it."

"That extra ticket may draw you as much more," says the banker, as they are about to depart.

"By the way," says the patterer, "when does this next drawing take place?"

"Time is not fixed, but the tickets are about all sold and you might come around tomorrow."

"I'm going out of the city this evening for a few days," says the "patterer," "and can't be here."

"Perhaps your friend could attend to it for you," referring to the sucker.

But he must leave for home.

"Couldn't we decide the matter now?" asks the bogus nephew.

"Well, I suppose I could accommodate you if you specially desire," says the "banker." Just step this way. He removes a green cloth from a table and a Banco lay-out is disclosed. Then inviting the "patterer" and his friend to take seats he explains the system. There are forty-one spaces. Twenty-six draw prizes; twelve are blanks. Others have special significance. The prize numbers pay two for one up to \$5,000, or twice the amount staked. The "banker" then produces a roll of bills and a pack of cards. The cards are numbered from one to six. The lowest number on the cloth is eight, the highest forty-eight. The cards are shuffled and the player draws eight cards. The numbers on these eight cards are

added together and if the sum corresponds to a prize number he gets the double of his money. Some numbers are marked "re-present." When the player strikes this he must double his stake. The "patterer" draws but gets a blank. Then it is suggested that if he adds a dollar and draws a prize he will get double. He places the dollar and asks Goodhue to draw for him as he seems to be out of luck. Goodhue draws and wins a prize for his young friend. This is becoming interesting. The "patterer" draws again and the "banker" presents Goodhue with a ticket and he draws and wins and is paid his money just as though he had put up. He is getting deeply interested in the game. The "nephew" suggests that they remove some of their winnings. The brewer wants to try again. Next they run against a "steer." This is explained. It entitles them to double, and seven "steers" without a prize gives them back their money.

"The number 27 is the 'double-steer.' If you draw that I place \$500 to the credit of each of you. This remains in chancery until you have had seven draws and if you should draw nothing but "steers" you would be entitled to remove all the money you had risked and the \$500 in chancery besides."

By manipulating the cards the number 27 is produced, and \$500 placed to the credit of each. Then they continue drawing. The "banker" now announces that they must add six dollars to each of their tickets. The "patterer" instantly puts his up. The brewer now for the first time has to expose his roll. They size up his pile and play on. Soon but two draws remain and it requires \$250 to "re-present." They hesitate. The "banker" urges that the chances are now largely in their favor; that they may not only recover the money they now have risked but win a nice sum besides. They put up \$250 each, and play again. One more chance remains. It requires \$1,500 to "re-present." It is put up or lose all. The patterer

goes down after his long roll of prize money and counts out the required amount. Goodhue hesitates again, but he considers that he is too far in the game to back out now. Besides, it is explained that there is only one chance of losing, and that is by drawing Banco, or number 28. This seldom occurs, the "banker" says, and they are almost sure of winning the money. The brewer puts up. The draw is made. The numbers add 28, and Mr. Goodhue, the wealthy brewer of Singleton, is "bancoed" or "bunkoed."

People of high standing in their communities who are caught in this trap are frequently quieted by threats of exposure. If a customer becomes too urgent in his demands for the return of his money these villains will not hesitate to resort to violence. It is almost impossible to catch them, for they are constantly changing their quarters.

The plan of working, of course, is subject to variations; that is, the plan of getting the sucker into the den, but the lottery scheme is always a part of it and the little lay-out with numbered cards and spaces is a part of the game. The language used above only represents a supposed case and the talk and inducements will of course be adapted to the circumstances. Again we say, do not take up with persons who seem to know you but whom you can't remember. And when any such strange person tells you of his good fortune in drawing a prize in a lottery, drop him without ceremony or delay.

#### THE SAW DUST RACKET.

This is a game of thief catch thief; a game in which the slick metropolitan schemer lures the country man, who is willing to engage in defrauding his neighbors, into his den and fleeces him. The proposition is to sell counterfeit money for about ten cents on the dollar. The person who wants to purchase must always go to New York to meet the vender of the "green goods." He makes the purchase, sees the beautiful

money put in a grip sack and expressed to his home, but when he gets an opportunity to examine it and finds nothing but rags, saw dust, old paper, etc., hence the name "saw dust racket."

New York is the headquarters of this business. From there the country is flooded with circulars. Following is a copy of one actually sent out by these sharks, and is a fair sample of them all:

DEAR SIR:—Thinking you are in a position to safely handle my "goods," I have concluded to write to you. If I have made a mistake, do me no harm, but let the matter drop. I am willing to prove myself your friend, if you are desirous of engaging in this speculation. If you don't care to engage in it, I hope you will excuse the liberty I have taken in making the proposition. My business is not legitimate, but the "goods" I deal in are safe and profitable to handle. The sizes are "1's, 2's, 5's and 10's," Old and New issues; do you understand. If you conclude to answer this letter, I will send you full particulars and terms, and I will endeavor to satisfy you that if you are my friend, I will prove a true and lasting one to you. If you have been unsuccessful in your business, I can supply you with "goods" with which you can pay off your debts and start free and clear again. You can purchase mortgages—in fact, my goods can be safely used the same as any "money" you ever handled in your life. It was never intended that one man should have millions of money and another nothing, so don't throw away this chance to make a fortune. Others have grown rich around you (no one knows how), so why not help yourself. I manufacture the goods, so in dealing with me you purchase from first hands, and no one shall ever know what passes between us. Answer at once, as this address is only good for three weeks, and be sure and return this letter or you will never hear from me again. I will return your letters, and



you must do the same with mine. Write to no one else about this business, for, if you do, I am sure to hear of it, and you will never get the "goods." I do not think it safe to trust a person with my goods who is willing to write to any and every one on such a subject. As an evidence of good faith on your part, I ask you to send me all letters you may receive in relation to this matter. Be sure and give your Post Office address, plainly written. Yours most sincerely.

No name is signed to this letter, but on a separate slip is this address, T. Tucker, 147 Delancy street, N. Y.

If this circular brings an answer another is sent giving prices at which the "goods" will be furnished. This second circular is usually accompanied by a clipping from a newspaper, or which has every appearance of having been cut from a newspaper, which gives an account of some Government plates having been stolen, and parties printing money from them and putting it in circulation, and how the attempt to convict the parties of passing counterfeit money failed because the Government officers themselves could not swear that the money passed was really counterfeit. This clipping is a fraud as no such thing ever occurred. The parties have a certain form set up like a newspaper with this account in it—which they manufacture themselves, for this purpose. A lot of them are printed and this is cut out and of course looks like a newspaper clipping. It is a very clever trick and tends to deceive the shrewdest people who are not on to the scheme. In this second circular also a fictitious name is assigned to the country man by which he is to be known in all future transactions. He is urged to come to New York. That is the only safe way. There he can examine the "goods" and satisfy himself they are all right before purchasing. Further correspondence fixes the time and place of meeting and the signal by which each is to know the other. Farmer Johnson goes to New York. He

meets his friend who is to put him on the highway to fortune. He is escorted to a small room in a secluded part. Piles of the most beautiful new money are shown him. Genuine bills are procured and compared with their "queer goods," and he examines with cautious care, but can discover no difference in any small particular. That money would certainly go without detection. They even suggest that he takes one of the bills out to the cigar stand on the corner and purchase a cigar and see whether it will go. He tries it and the bill is accepted. They sing him the old song about the stolen plates. He is convinced and decides to invest. He counts out his good money, \$300, \$500, or perhaps \$5,000.

They put up a package of their "goods" very carefully, place it in a small valise, which they propose to present him to carry it in. Just then some interruption takes place, perhaps a knock at the door. "Hist! quiet boys. See who that is, John."

The little grip is quickly hidden beneath the desk by the main operator, the door is opened; only an express messenger with a package. The book is receipted and he gone. The little grip is withdrawn from its hiding place. Then they advise him to express it to his own address, as the safest way of transmitting it. He falls in with their suggestions. Why not? Are they not his friends? Are they not painting the horizon of his future a rosy hue, and filling his dreams with broad acres of fertile land, upon which graze hundreds of the fattest cattle? Has he not at their command slept on downy couches in the magnificent mansion of a prince and dreamed of fiery steeds with elegant equipage, happy wife in silk and diamonds, and beautiful children proud of their station? What are the few paltry hundreds he left with his friends? True, 'tis his all, at least it was his all when he left home; but now safely locked in that little satchel and speeding on their way to his rural home,

by the fastest and safest express are thousands in place of his hundreds!

He is impatient to get home. At home he is impatient to get to the express office. Finally he is there. He gets the valise, yes, the same one—ah, you precious treasure! Now where shall he go to feast his eyes alone—yes, he must be alone. Others must not know of his suddenly acquired wealth. It might excite suspicion. They would not suspect the spurious character of the goods he carried, for it was in every respect the same as Uncle Sam turned out, but he had been away, and they might think he had stolen it. He steps briskly along the street with the step of a millionaire proprietor. Smith, the honest groceryman, is standing in his door, and greets him as he passes: "Helloa! Smith, how's business?" with a tone of familiar superiority.

"Oh, dull enough," says honest Smith.

"Guess ye want to sell out. Well, I'll come down some of these days and give you a bid."

"Make me a bid!" says Smith, to himself. "He couldn't buy a hencoop if there was a rooster in it."

But where can he go? Up stairs? No, that won't do; the children will surely follow him. There's the woodshed, but John, the oldest boy, is just getting in the wood for the night. That is given up. Ah, the barn; that's the place, and he lets himself in without being discovered. Old Tommy greets him with a whinny, which startles him. At any other time he would have rewarded the faithful animal with a handful of oats and a gentle caress, but now he feels like cursing him. He creeps stealthily to the hay-mow loft and seeks an obscure place in the extreme rear, where the rays of the setting sun come straggling through a convenient pigeon hole in the boards. Now all is quiet, and he hastens to feast upon his treasure. He takes the tiny key from his pocket, cautiously

he inserts it in the small key-hole and carefully turns. The felicity of anticipation now restrains his eagerness. Deliberation takes the place of haste. Why hurry the climax? Here is happiness in anticipation; in just being about to realize. But if—but no, it can't be. What silly thought is this? Didn't I see the money put in the satchel, and the satchel locked? And didn't I express it myself? And here it is. I'm a simpering idiot. I hope the key won't click when it turns. Now carefully.

A slight noise announced the bolt had shot. "I wonder what I shall do with all this money? It won't do to keep it all about. Why, that looks funny; that package got turned over. Darn my skin, it's busted. Come out here, old fellow. You're a little joker to tease a man this way. Ha, ha, (a sickly laugh), what tricks these express companies do play with one's valuables. Why, I didn't see that bundle of rags put in there. Geminy! but those fellows do pack a thing carefully! Well, the great Cæsar, look at the saw dust. They must have thought it would break. I guess the package is right under that. Great guns! what a pile of old paper! Where's the package?"

Great beads of sweat now stand out on his forehead. His hand trembles as it dives to the bottom of the satchel. A fearful, sickening apprehension seizes him; his heart almost stands still; a convulsive shudder passes over him. He is frantic. He turns the satchel upside down. Its worthless contents are before him. Frantically he claws in the hay for the semblance of one little bill. Alas, it is not there.

— Poor man. He has attempted to do a criminal thing, and he is the first one to suffer himself. His all is gone. There is no recourse. The courts will give him no redress, because he was engaged in an unlawful act.

The fact is the New York parties had not a dollar of coun-



terfeit money. These fellows don't deal in counterfeit money at all. The money they have is all good, but they never sell any of it for ten cents on the dollar. They get the dishonest farmer's good money and give nothing in return. The express messenger who came with a package was one of the gang fitted out for the occasion. When the little grip was hastily thrown under the table which stood against the wall, a confederate, in the adjoining room, opened a secret panel in the wall and changed the grip for another, its duplicate, excepting contents. The dishonest sucker knows nothing of the change until he is a thousand miles away, and then in nine cases out of ten they can't tell how the trick was done. It may not be an express messenger who comes, any interruption will do to frighten them into hiding the grip for a few moments. Some opportunity is always made in a natural way for changing the grip.

Now the question may arise in the minds of some moralists whether farmer Johnson is worthy of any sympathy. That we will not discuss. We have no sympathy for a man who in preparing to defraud his neighbors and friends gets caught himself. There is one thing certain, farmer Johnson, or any other man who attempts this thing, has no standing whatever before the courts. The old legal maxim, "He that comes into court must do so with clean hands," applies here. There is no redress for a man beaten in this game.

A word of advice to everybody on the saw dust racket: Don't imagine for a moment that you can catch these fellows, for you can't do it. The smartest detectives in the country have tried it and invariably got the worst of it. They have plenty of ready money, in many cases have the police subsidized, can produce all the evidence necessary to overwhelm all the testimony any stranger may be able to bring and will always get the person who attempts to catch them into serious

trouble. Don't be criminal sucker enough to bite at their fraudulent criminal proposition. Let them severely alone and you will be safe.

### THREE CARD MONTE.

This is an old game and one of the "dead sure" kind. Ordinary playing cards are generally used, any three being taken. The operator often pretends to be a greenhorn, and says he saw some "city chaps" throwing the cards around and he is just trying to see if he could do it. The cards are bent slightly from end to end toward the face, making a trough where they lie face up and enabling the operator to catch them easily between thumb and finger when face down. The faces are shown to the victim and then they are thrown rather carelessly from hand to hand over each other back and forth, and the sucker is asked to pick out one. Suppose the cards are the ace, deuce and trey of hearts, the ace to be selected. The ace is shown, then thrown down on the table and all are passed back and forth a few times. The sucker is asked to pick out the ace. He makes a selection and gets the ace. The player probably says he can't get on to the way that fellow did it. "Now, I've got 'em fixed. Now I'll go you half a dollar you can't pick it." The sucker, who has been watching the cards closely, and knows where the ace is, bets half a dollar and picks the ace. The player seems discomfited, but says he will try it again. "Now, I'll go you \$20 you can't pick it." The sucker, who has still been watching the cards and knows just as well this time where it is as he did before, puts up his twenty and draws—not the ace—no, not this time. He gets the deuce or the trey this time. Of course, the fool took the sharper for a sucker, but he got the worst of it himself. It is one of the cleverest accomplishments of these rascals to act the sucker.

Now the reason the real sucker was so sure he could pick

the ace was because he discovered that one corner of it was slightly turned up, thus distinguishing it from the others. He thought the manipulator of the cards was so green or lacking in common observation that he did not see it. But that was the very bait set to catch him with. When he drew to win twenty the corner of another card was turned up just like the ace had been and the ace card was as smooth as when it was made. It requires very clever and dexterous manipulation of the fingers to accomplish this, but these fellows that follow it for a living become very expert—it is impossible to detect them fixing the cards.

This game is not always played by a man representing himself as a greenhorn. Frequently at county fairs and shows it is played right out for all there is in it, generally in some secluded spot or any place where there are no officers around. As soon as two or three people are fleeced they pick up and move away.

The player always has two or three confederates, who come up and start the game and win money, then the suckers see how easy it is and bite.

*Never bet on another man's game.*

#### SHELL WORKERS.

This is a variation of Three Card Monte. Little cup-shaped shells are used, the half of the hull of an English walnut being generally employed. A little pill of composition used in making rollers for printing presses is the "mascotte" of this game. A box, a barrel head, or any level surface where a small crowd can be attracted, will suffice for the game. The little ball is rolled around and covered first by one shell, then by another. "Pick out the shell that the ball is under for ten dollars," says the head worker. A confederate comes up beside the sucker and says: "That looks easy. We can beat that. I'll go halfers with you and we'll make a little stake."

The sucker bites. They put up their money and turn the shell. The ball is not there.

This game is worked so cleverly that many people are caught who have been amply warned, and some who understand the principle of the game have even been fooled. When you look at the manipulation of the shells and see how easy it is, notwithstanding this warning, you will think, "It must be there. It can't be any place else. I'd bet all I have or ever expect to be worth that I can pick the shell it's under." Hold on, young man. Don't be too sure. Those men are playing to win your money and they'll get it as sure as you put it up. Let us warn you particularly against this game. It is the most seductive and most dangerous. Don't touch it under any circumstances—you are sure to lose your money.

The fact is, the ball is not under any of the shells at the time the selection is made. By a very quick and skillful movement of the shell and the little finger, they "cop it out," and the poor sucker has no chance at all of winning. Still they are so dexterous in handling the little ball that they can pick up any shell at any time and show you that it is under it. But if *you* pick it up for money it is not there.

*Never bet on another man's game.*

#### CONFIDENCE GAME.

There is a bold and daring scheme played on wealthy farmers nowadays for big money, that is usually called a confidence game. It embraces the features of a confidence game, and, according to the plan recently adopted, winds up with the serious crime of robbery. Two men usually work it. To the farmer they appear to have no connection with each other whatever. They always work farmers who have a healthy bank account.

A gentleman who has the appearance of a prosperous business man makes his appearance at the farm house. He is



probably in a carriage, drawn by a fine team of horses. He has driven out from the county-seat town and is looking for a farm. He may have some other business, but these fellows generally want to buy a farm. He engages the farmer in conversation, is exceedingly agreeable, and apparently a gentleman in every respect. He is well informed, too, on farm topics, and talks intelligently on all subjects. The farm is looked over. The stranger is asked in to dinner. His horses are put up and fed. He likes the appearance of everything very much. But they can not agree on the price. He goes away, and probably next day comes back again. They always take plenty of time in working this game. Three or four days, or a week, may be spent in this way, until Mr. Farmhunter has come to be quite a favorite at the farm house. He don't make any loose or slip-shod bargain for the farm. He usually drives a very close and business-like bargain, and, in some instances, they have shown themselves exceedingly well posted about the rights of the purchaser of a farm.

When the proper time comes a second stranger appears upon the scene, meeting the farmer and his pseudo-purchaser at a convenient time and place. There is no telling what his talk will be about, or what his pretended business in the community is. They are not long together until, upon some pretext, a game of cards is proposed. The first man probably advises the farmer that they have nothing to do with him. Still, as a matter of curiosity, they look at what he has. He begins to play his little game, and it looks simple and easy. The first comer is tempted to draw once just for fun—no money put up. He draws the winning card. Sometimes if the farmer understands it an ordinary game of draw poker is played. Any game will do upon which they can bet money. The farmer is finally drawn into the play and makes some small winnings, then he loses some, then wins again, and

keeps on winning and the stranger keeps on putting up more money—his pile seems inexhaustible. The game is getting interesting now. The farmer has won several hundred dollars. Of course he hasn't taken it in yet, but it lies there in front of him. It is his; he has won it. Then the last comer begins to grow desperate at his losses and stakes more largely than ever, pulling great rolls of bills from his pockets. The farmer's eyes bulge out at the sight of all that money. "If my luck continues," he says. And it does continue. He loses occasionally, but his winnings keep growing. A thousand dollars is now in the pile. But the reckless gambler puts up more.

"Oh, I always could play a pretty stiff hand at poker," the old man says. "Why I remember one time when I was a boy, jist a comin' up to a man like, down to Zeke Higginbottom's, we got to playin' a little game, a cent ante, I guess it wus, an' I had wonderful good luck, jest knocked 'em all out, but law sakes, that wus nothin' like this. Seems a pity like to take all this man's money."

"That's all right, old man, if you win my money square, I never kick, it's yours. Here goes to win all back or lose all."

The play goes on bigger than ever. The pile now contains \$2,000. Still the bets increase, and still the old man's luck runs on. Now \$3,000, \$4,000 in the pile. The gambler in desperation empties his pockets and counts down his last thousand. "I stake it all," he says, "on that play. I'll win or go broke."

The cards are run and the old man wins.

"By zounds, the most wonderful run of luck I ever saw," says the gambler.

"I congratulate you on your good fortune," says the farm purchaser.

"Now, old man," says the gambler, "when I lose I never

squeal. Here's the money. You've won it and it is yours." And he picks it up to count it over. "But you must remember," he went on, "that you haven't put up any money against mine. I played my good cash against your word. Now, I might have won from you, and I think it no more than right and fair before I turn this money over to you absolutely that you give me some evidence that if I had won \$5,000 from you as you have from me that you could pay me. I don't want to play my good money against wind. Can you show up \$5,000?"

The old man hesitates and the farm purchaser says he thinks that is fair. Then the old man says that he hasn't got the money in the house but if he was in town he could get it. So it is arranged that they go to town in order that he may show up his money, to satisfy this man that if he had won it from him he could have paid.

The farm purchaser, being an outside third party, is probably entrusted with the custody of the \$5,000 the old man has won until the matter is settled. They manage to select some secluded place along the way where the farmer is to show up his money. In recent times, the next step has been one of bold robbery, slugging or sand-bagging the old farmer and taking his money from him. Formerly, possession of it was obtained upon some strategy, as for the purpose of counting it, the farm purchaser probably being entrusted with this duty. Possession once obtained of the money, the pair lose no time in getting away. Having a swift team they drive rapidly across the country, striking the railroad at some small station about train time, which they manage to know, and leaving the team, take the train and are many miles away before the alarm is raised.

Only a few men in the country are working this racket, but they are the boldest and cleverest rascals out of jail. Ev-

ery farmer should look out for this very alluring and dangerous trick. In it success means failure—you seem to win, yet lose all. And these men will not hesitate at taking human life if necessary when it comes to getting the money.

#### THREE BOXES OF CANDY.

A common trick, worked usually on trains, is the candy box trick. It is generally worked by train boys or young men representing themselves as in the employ of the news companies who have the privilege of selling books, fruits, confections, etc., on the train. It is scarcely necessary to say that the sharpers who work this racket have no connection with the news company, or if they have, their nefarious business is done without the knowledge or consent of the company. Of course this may be worked any place, but the train seems peculiarly adapted to it.

The fellow pretends to be selling candy and offers prizes. He has little boxes like trochee boxes, the lid of which encircles the box and the box slides in and out of the lid. Twenty, thirty or more dollars in bills are placed in a box on top of the candy. The victim sees the money placed in the box, and observes, too, that the box is soiled and one end is slightly rubbed giving it a whitish appearance, the green coloring being rubbed off. This he of course considers an oversight of the candy man and a sure pointer to the location of the box with the money. Three boxes are used in playing this trick, all alike in size, shape and color, except the one defect noted. They are shuffled over and held out to the sucker with the proposition that he can have the chance of drawing the box with thirty dollars in it for ten. He has watched the shuffling closely, which is usually done rather clumsily, and *knows* that the box with the money and the whitened end is on the bottom. That is like picking up thirty dollars in the street. He just goes a tanner on that and pulls the bottom box with the



whited end. When he opens it up and finds half a dozen little pieces of cheap candy his eyes hang out on his cheeks.

The whitened end was the trap set to catch him. The money was placed in the box and the box was on the bottom, but the top box had a whitened end exactly like the bottom one but it was toward the operator and the sucker had never seen it. When he momentarily took his eyes off the boxes to get his money the boxes were turned over endwise, the top box coming on the bottom and presenting apparently the same whited end to the sucker that he had seen before. But the money was not there.

If the sucker had seen the change in position, and attempted to select the top box with the money, he would not have been permitted to do so. Some objection would have been raised, the boxes would have been suddenly struck by a confederate, and knocked out of the operator's hands, or something would have occurred to prevent him from getting the money. They *never* allow an outsider to win any money, whether he is onto their game or not. So we say, *Never bet on another man's game.*

#### BOOK GAME.

Very similar to the candy box trick is one worked with books. It is a train trick and worked by apparent newsboys. They say that the Company, in order to encourage the sale of this book, has offered a number of cash prizes, and intimate to the sucker that by a little clever manipulation they can control the distribution of these prizes to a certain extent, and they would like to see him get one, etc. Then they put bills in a book and use these books, all alike, on the same plan as the boxes.

Don't be sucker enough to think that any stranger wants to put money into your hands for nothing.

## BEE HIVE OR HAPHAZZARD.

A common game about country fairs, picnics, shows, etc., is the old haphazard racket. This is played with a machine shaped something like a conical bee hive. It is a cone shaped arrangement standing on its base, and in the sides at apparently irregular intervals are driven, or fastened, nails or pins. At the bottom, around the base, is a trough, and leading off from this little stalls which are numbered. If a marble is dropped on the top of the cone it will start down the side, striking the pins and jumping from one to another, and finally land in the trough at the bottom, and go into some one of the little numbered stalls. Some of these numbers draw prizes, others do not.

This is another sure thing game. No outsider ever draws a prize. A very slight movement in the position of the machine will make it draw prizes or blanks at will. This is done without attracting any attention, as though to arrange it in its position. Confederates put up their money and draw handsome returns. Suckers put up their money and draw nothing but experience, who "teaches a dear school." The old adage says, "but fools will learn in no other."

## STRAP GAME.

A sure thing game, of a dangerous character, is worked with a soft leather strap about half an inch wide and two feet long. The strap is cut even, and is soft and pliable. The strap is first doubled in the middle, bringing the two ends together. The parts are then pressed flat together and the double strap is rolled, beginning at the end where the strap is doubled and rolling together closely in a tight roll towards the loose ends. In the center of the roll, when finished, can be seen the little loop that begins the roll. In fact, if you look closely, there are two little loops there exactly alike, formed by

doubling the strap over itself and it is impossible, almost, to tell which one really begins the roll. The completed roll is laid down on a table or other surface, but still held in the hand of the operator, and the proposition is made that the sucker can not insert his pencil or other sharp pointed instrument in the strap or loop in such a way as to be inside the strap when it is unrolled. It should be observed that as the strap is rolled up the outside piece, having the larger circumference to reach around, appears to grow shorter, and the two ends will not be together, sometimes being half the circumference of the roll apart. Now, don't imagine that you can catch the loop, for you can't do it when you have any money up. You might catch it when there is nothing at stake but never when they don't want you to catch it. The reason is that the operator controls that matter entirely and absolutely. He can make you catch it or miss it at will. It is done by the manner of unrolling the strap and depends entirely upon the end of the strap that he begins to unroll with. The ends being uneven he can begin with either one and the other must come along. A few trials with this will make the explanation plain. Don't bet on it. You can't beat it.

#### FLIM FLAM RACKET.

It is scarcely worth while to explain this racket, because a man is always caught on it before he knows it, and hence warnings do no good. It is always played on merchants and dealers, saloon-keepers being favorite victims. Two fellows come into a saloon and call for beer. It is drawn and placed before them. One fumbles in his pocket as though feeling for change, but not finding any hands out a five dollar bill. The saloon keeper changes the bill and gives him back \$4.90. Just then, as he is counting down the change, the fellow says: "Oh, never mind, just give me back that bill, here is the change." The saloon-keeper returns for the bill and brings it

back and they put down a dime for the beer. While he was gone for the bill, the \$4.90 in change, which he left on the counter, has been transferred to their pockets. He hands back the bill and takes the dime. Perhaps some third party, a confederate, comes in at this moment and calls for a drink at the other end of the bar, which distracts his attention and adds to the confusion in the saloon-keeper's mind. While he is waiting on the other party the first two walk out, \$4.80 and two beers ahead. The saloon-keeper may never think of it again, or he may discover it in counting up his cash, or it may come to his mind in thinking the matter over, but in any of these events it is too late.

"Well, I never would get caught on a trick like that," we hear some one say. We hope not truly, but remember that many very clever business men have been caught on that same simple little trick, and they will continue to be caught on it for all time to come.

The only advice to be given on this subject is one of business caution. Always be careful in making change. Finish up one deal before you begin another.

#### ANOTHER FLIM FLAM.

All swindles in making change of money are called Flim Flam. A very common form is worked at shows. Outside ticket agents stand at some distance from the show in the direction in which the crowds come, to accommodate the people with tickets who desire to avoid the rush at the ticket wagon. They are not employed by the show people to do this, neither do they get a percentage from the show on the tickets they sell. The truth is they pay the proprietors of the show a goodly sum for the privilege of standing there and selling the tickets, and, of course, they buy the tickets from the show people themselves at the regular rate. They make their money by swindling people in making change. They have what they



call "flash bills." This, we will suppose, is a five dollar note, folded up rather small and in a peculiar way. It is "palmed," or held in the hand concealed. The shark must wait his opportunity, which comes when some young dude, or perhaps better, an old man whose sight is not very good, comes along and offers a ten dollar bill in payment for his tickets. He takes the bill, folds it up carefully and exactly like the other concealed bill is folded. This he does in full view of the victim. Perhaps, just as he gets it folded up, he will say, "Haven't you something smaller than this, old man?" If the old man finds smaller change he hands a folded bill back to him and takes the small change, giving him as many tickets as he asks for. If he has not smaller change he goes down into his pocket and gives him change for a five dollar note, say four dollars in change and two tickets at fifty cents each.

"Why, I gave you a ten dollar bill," says the old man.

"I beg your pardon, sir, you did not. You gave me a five dollar bill. You saw me fold it up here plainly and here it is, the only bill I have."

"Well, that's funny," says the old man, "I was sure that was a ten dollar bill."

"Well you see plainly with your own eyes that it is not," says the sharper, "and so that settles it." And he begins calling out his tickets again, and the crowd pushes the old couple along and they go off wondering how that was. It was simply a slight of hand performance by which the ticket seller substituted his prepared five for the old man's ten, and cheated him out of five dollars. If the old man finds smaller change when he asks him to do so, he hands him back the prepared five and the victim probably puts it in his pocket and never looks at it. so certain is he that it is the same bill that he handed him. If he looks at it he settles him the same way as before.

## DOUBLE BILL FLIM FLAM.

Another method of flim-flaming is as follows: The victim presents say a twenty dollar bill to purchase two tickets to the show. The shark gives him his tickets and counts out his change thus: "five, ten, fifteen and two are seventeen and two are nineteen." The old man probably puts it in his pocket without counting it over again as he has seen it counted out so carefully right into his hand. But when he happens to examine it he will find it five dollars short. The shark has one of the bills doubled around his fingers in a peculiar way so that when he withdraws his hand from counting the change to the old man the bill returns with it and he is five dollars ahead. In the first place never present a large bill to these show people, or any one connected with them, or to any one who travels about over the country and is not to be found in the same place two days at a time. If you have large bills go to a bank or responsible merchant and get change and present the proper amount for the tickets. In the second place if you must take change from the ticket seller always count it at once and in his presence. And when you present a note call his attention to the fact that it is a ten or a twenty as the case may be.

## SNIDE AUCTION HOUSES.

In every large city there is a class of sharks who run snide jewelry auctions. There is a crier and two or three cappers standing around to give the appearance of a crowd. The crier will be making a much bigger noise than the size of the crowd would seem to justify. We have not time or space to go into a detailed description of these places. They are rank frauds and we say to our country friends, keep out of them. They work especially for strangers from the country. In the first place their stuff is worthless, and if by chance you should buy a watch or other article that had any value, it would be

changed on you, before you would get possession of it, for a similar appearing article worth nothing. Don't imagine you can beat them—you can't do it. Let them alone. Keep out and you are safe. If you want to buy a watch go to a responsible dealer and pay a fair price. These sharks are not going to give you something for nothing.

#### SOAP RACKET.

At country fairs, picnics, etc., sharp fellows sell soap, or sometimes boxes of pen points, said to contain cash prizes. These are clever slight of hand performers and arrant swindlers. No outsider ever draws a prize. When you see some one buy a box of soap and get a five dollar note in it you may know that he is a confederate. They fold the money up before your eyes, place it carefully in a box and drop the box into the large box containing perhaps several hundred boxes of pens or soap as the case may be. But you are deceived. The money did not go in. You may open every box in the pile and you can't find so much as a five cent piece. They are not giving away money. They are there to make money, and every sucker that bites at their bait will get caught. If you want soap go and buy it, and don't think that five dollar bills grow on trees, that people can give them away so liberally. Don't try to get something for nothing. Don't be a sucker.

#### RING DROPPING.

This is an old trick practiced in England a hundred years ago but still in vogue in some places. The swindler and his accomplices having the sucker in tow find or pretend to find on the street or in some convenient place a little package which upon being opened is found to contain a valuable ring and a receipted bill for "a rich, brilliant diamond ring" is wrapped around it. They do not want to carry the ring with them, being of so great value, and the offer to leave it in the sucker's

safe at his place of business if he will deposit with them some money or his watch or both as security. The ring is worthless and he is swindled, for he never sees them again.

#### RINGING THE CHANGE.

A trick of passing counterfeit coin which makes it appear that some one else is the person doing it. The shark runs a fruit stand perhaps, or other small business. A person comes up to buy a nickel's worth of peaches, and gives him half a dollar to pay for them. The shark vender looks closely at the half dollar, bites it, rings it on the counter, and hands it back to the purchaser with the remark that it is bad. The purchaser gives him other money and departs with a counterfeit half dollar in his pocket. This is only a little slight of hand trick by which the slick vender substitutes a bad coin, which he has "palmed" in his hand waiting for the opportunity, for the good coin which the purchaser presents in payment. The sucker wonders where he got that coin and why he never noticed it before, as it is palpably bad.

There are other schemes and tricks for swindling unsuspecting people, but most of them will be found to be some variation of the ones we have attempted to explain here. It should be remembered that these schemes are not always worked in the exact way we have described. These fellows are full of resources, always adapt themselves to circumstances, and vary the plan according to necessity.

We believe if the principles and instructions laid down here are followed that the readers of this book will be saved many thousands of dollars. We can only add: Don't imagine when you see one of these games that you are smarter than any body else and can beat it, for you can't. Let them alone. *Don't bet on another man's game. Don't be a sucker.*



# THE LAW OF BUSINESS.

## CHAPTER I.

### MEANING OF LEGAL TERMS.

**A** MENSÆ ET THORO.—From bed and board. Not an absolute divorce. (See Divorce.)  
A VINCULO MATRIMONII.—From the bonds of matrimony. Absolute divorce.

**ABATE.**—To stop; to put an end to; as to end a suit by the death of a party to it. More commonly, to put away or cause to be removed; *e. g.*, to abate a nuisance.

**ABETTOR.**—One who promotes or procures the commission of a crime. (See Accessary.) A person to be an abettor must be present and participate in the commission of the crime.

**ABORTION.**—The expulsion of the fœtus from the uterus so early after conception that it has not acquired the power of sustaining independent life. That is before the expiration of the sixth month. If before the expiration of the sixth week it is usually called miscarriage. Abortion may be brought about by *innocent* means: as disease, nervous temperament of mother, great debility, excessive venereal indulgence, etc.; or by *criminal* means: as emetics, cathartics, emenagogues, or external violence to the abdomen or loins, or the introduction of instruments into the uterus, which frequently produces the death of the mother as well as of the fœtus. If the woman dies in consequence of the use of instruments or drugs to procure an abortion it is murder.

**ABSCOND.**—To depart in a secret manner from the jurisdiction of the court, or to lie concealed in order to avoid process.

**ACCEPTANCE.**—Receiving anything with the expressed purpose of retaining it; acceptance of a draft or bill of exchange is entering into an agreement to pay it when it falls due. It is done by writing the word "Accepted" across the face of the draft when it is presented.

**ACCESSARY.**—One who is not the chief actor in the perpetration of the offense, nor present at its performance, but is some way concerned therein, either before or after the fact committed.

*Accessory Before the Fact.*—One who, though absent at the time of the crime committed, yet procures, counsels or commands another to commit it.

*Accessory After the Fact.*—One who, knowing a felony to have been committed, receives, relieves, comforts or assists the felon.

**ACCIDENT.**—In Equity. An unforeseen event, misfortune, loss, act or omission which is not the result of any negligence or misconduct in the party.—*Bouvier*.

**ACCOMMODATION PAPER.**—Promissory notes or bills of exchange made, accepted or endorsed without any consideration.

**ACCOMPLICE.**—One who is in some way concerned in the commission of a crime, though not as principal.

**ACKNOWLEDGMENT.**—The declaration before a competent officer or court of a person who has executed a deed, that it is his free act.

**ADMINISTRATOR.**—A person authorized by court to manage and distribute the estate of an intestate, or of a testator who has appointed no executor, or when the executor declines to act.

**ADULT.**—Any person, of either sex, who is twenty-one years old or more.

**AFFIDAVIT.**—A statement or declaration in writing and sworn to or affirmed before some officer who has authority to administer an oath. It differs from a deposition in this, that in taking a deposition the opposite party has an opportunity to cross-examine the witness; the affidavit is always *ex-parte*.

**ALIAS.**—(*Another.*) Applied to a writ issued where one of the same kind has been issued before in the same case.

**ALIAS DICTUS.**—(*Otherwise called.*) In its common use this term is contracted to "alias" and means "otherwise called." It is most commonly applied to criminals who sail under several different names, as John Larney, alias "Mollie Matches."

**ALIBI.**—(*Elsewhere.*) Presence in another place than that described.

**ALIEN.**—A foreigner, one of foreign birth, who has not been naturalized.

**ALIMONY.**—The allowance which a husband by order of court pays to his wife, who lives apart from him, for her maintenance. It may be *pendente lite*, *i. e.*, during trial, or permanent, *i. e.*, during their joint lives after termination of suit.

**AMNESTY.**—An act by the government, granting oblivion of past offenses, or immunity from the penalty that would legally follow, generally upon condition that the offender return to duty within a certain period.

**ANIMO.**—With intention.

**ANIMUS.**—The intention with which an act is done.

**ANNUITY.**—A yearly sum stipulated to be paid to another in fee, or for life or years.

**ANSWER.**—A defense in writing, made by a defendant, to the charges contained in a bill filed by the plaintiff against him.

**APPEAL.**—The removal of a cause from a court of inferior to one of superior jurisdiction, for the purpose of obtaining a review and re-trial.

**APPEARANCE.**—A coming into court as party to a suit, either as plaintiff or defendant. In civil suits it may be in person or by attorney.

**APPELLANT.**—One who appeals from one jurisdiction to another.

**APPREHENSION.**—The capture or arrest of a person on a criminal charge.

**ARBITRATION.**—The investigation and determination of differences between contending parties, by one or more unofficial persons, chosen by the persons and called arbitrators or referees (sometimes arbiters).

**ARBITRATOR, ARBITER.**—See Arbitration.

**ARISTOCRACY.**—A form of government in which a class of men rules supreme.

**ARRAIGN.**—To call a prisoner to the bar of the court to answer to the matter charged in the indictment; upon being arraigned he is called upon to plead *guilty* or *not guilty* to the charge.

**ARREST.**—Apprehending a person and detaining him in order that he may be forthcoming to answer an alleged or suspected crime.

**ARSON.**—The malicious burning of the house of another. "House" includes barn, stable, cow-house, dairy-house, etc.

**ARTICLES OF AGREEMENT.**—A written memorandum of the terms of an agreement.

**ASSASSINATION.**—A murder committed treacherously, by surprise or secret assault.

**ASSAULT.**—An unlawful offer or attempt with force or violence to do a corporal hurt to another.

**ASSETS.**—All the stock in trade, cash and all available property belonging to a merchant or company.

**ASSIGNMENT.**—A transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or right therein.—*Bouvier*.



An assignment is a transfer by writing and not by delivery.

ASSIGNEE.—One to whom the transfer is made.

ASSIGNOR.—One who makes the transfer.

ASSUMPSIT.—An undertaking, either express or implied, to perform a parol agreement.

ATTACHMENT.—A writ issued by the court commanding the sheriff, or other proper officer, to attach the property, rights, credits or effects of the defendant to satisfy the demands of the plaintiff.

ATTEST.—To witness an instrument in writing, as a deed or lease, by signing one's name to it to prove it and identify it. The person doing this is called an *attesting witness*.

ATTORNEY.—One who acts for another by appointment.

ATTORNEY-AT-LAW.—An officer in a court of justice who is employed by a party in a cause to manage it for him.

BAILEE.—The one to whom personal property is delivered under contract of bailment.

BAILIWICK.—The jurisdiction of a sheriff.

BAILMENT.—A delivery of something of a personal nature by one party to another, to be held according to the purpose or object of the delivery, and to be returned or delivered over when that purpose is accomplished.—*Bouvier*.

BAILOR.—One who bails a thing to another.

BANKABLE PAPER.—Bank notes, checks, notes and other securities for money received as cash by banks where the term is used.

BAR.—*To action*. A perpetual destruction of the action of the plaintiff. An ordinary claim in the form of an open account is *barred* in Ohio in six years.

BARRATRY.—A fraudulent breach of duty, or willful act of known illegality, on the part of a master of a ship, in his character of master, or of the mariners, to the injury of the owner of the ship or cargo, and without his consent. It in-

cludes every breach of trust committed with dishonest views, as by running away with the ship, sinking or deserting her, or embezzling the cargo.

**BASTARD.**—One born of an illicit connection and before the lawful marriage of its parents. One *begotten and born* out of lawful wedlock. A man is a bastard if born before the marriage of his parents, but he is not a bastard if born after their marriage, although begotten before. A man is a bastard if born during coverture under such circumstances as to make it impossible that the husband of his mother can be his father, as if the husband has been absent on a sea voyage for twelve months prior to his birth.

A man is a bastard if born beyond a competent time after coverture has ceased, as twelve months after the death of the husband or after divorce. Most of the States provide that if a man marry a woman after she has borne children for him, that fact legitimates the children.

**BATTERY.**—An unlawful beating or other wrongful physical violence or constraint, inflicted on a human being without his consent.

**BENEFIT OF CLERGY.**—The exemption of the persons of clergymen from criminal process before a secular judge. The privilege was extended in England to all who could read, such persons being, in the eye of the law, *clerici*, or clerks. The privilege was abridged and modified by various statutes, and finally abolished in the reign of George IV.

**BEQUEATH.**—To give personal property to another by will.

**BEQUEST.**—Something in the form of personalty left by will to another.

**BIGAMY.**—The state of a man who has two wives, or of a woman who has two husbands living at the same time. If more than two wives or husbands the proper term is polygamy.

**BILL.**—A complaint in writing, addressed to the chancellor or court in equity.

**BILL OF EXCEPTIONS.**—A written statement of objections to the decision of the court upon a point of law. It must be made by a party to the cause and properly certified by the judge or court who made the decision.

**BILL OF EXCHANGE.**—A written order from one person to another, directing the person to whom it is addressed to pay a third person named therein a certain sum of money.

**BILL OF LADING.**—A memorandum in writing signed by the captain or master of a vessel, or by the carrier or agent by land, that he has received certain goods, specified, at time and place stated, which he promises to deliver in like good condition as received to the consignee, at the place therein named, said consignee paying freight for the same. A bill of lading is assignable by endorsement and the assignee is entitled to the goods subject to certain liens.

**BILL OF SALE.**—A written agreement under seal by which one person transfers his right to or interest in his personal property to another.

**BIRTH.**—The act of being wholly brought into the world. The whole body must be brought into the world and detached from the mother, and after this the child must be alive. The circulating system must be changed—the child must have an independent circulation. It is not necessary that the umbilical cord be separated. That may still connect the child with its mother and yet the other conditions of life, circulation, breathing, etc., being present, the killing of it would be murder.

**BLACK-MAIL.**—In modern use the extortion of money from a person by threats of accusation or exposure. The term originated in England and was first applied to those rents which were paid in grain or labor. They were called black-

mail (*reditus nigri*) in distinction from white rents (*blanche firmes*) which were paid in silver.

The bands of marauders that infested the borders of England and Scotland about the middle of the sixteenth century levied contributions yearly from the inhabitants for alleged security and protection. This was called black-mail.

BONA FIDE.—In good faith; honestly.

BOND.—An obligation in writing, under seal. It is usually for the payment of money upon certain conditions as the malfeasance in office of the party for whose good conduct the bondsmen vouch, or the failure of a prisoner to appear in court for trial.

BOTTOMRY.—A contract in the nature of a mortgage by which the owner or master of a ship borrows money for the use of the ship on a specified voyage and pledges the ship as security for the payment. The rate of interest is high and if the ship is lost at sea the lender loses his money.

BREACH.—The violation of a contract, obligation, engagement or duty.

BREACH OF THE PEACE.—The offense of disturbing the public peace.

BREACH OF TRUST.—The willful misappropriation, by a trustee, of a thing which had been lawfully delivered to him in confidence.

BREAKING DOORS.—Forcibly removing the fastenings of a house so that a person may enter. An officer armed with a warrant for the arrest of a person charged with a felony may "break doors" and use necessary force to secure the felon.

BRIBERY.—The receiving or offering any undue reward by or to any person whomsoever, whose ordinary profession or business relates to the administration of public justice, in order to influence his behavior in office, and to incline him to act



contrary to his duty and the known rules of honesty and integrity.—*Coke*.

The term bribery is now much broader and includes the offense of giving a bribe to many other officers.

BUGGERY.—See Sodomy.

BULLION.—Uncoined gold or silver in the mass.

BURGLARY.—The breaking and entering the house of another in the night time with intent to steal or commit a felony.

CANON LAW.—A body of ecclesiastical law, which originated in the Church of Rome, relating to matters of which that church claims jurisdiction.

CAPIAS.—A judicial writ, directing the sheriff to take the person of the defendant into custody. The meaning of the word *capias* is "that you take." It came to denote the whole class of writs by which a defendant's person was to be arrested, because it was the first word of distinctive significance in the writ.

CAPITAL CRIME.—One for which the punishment of death is inflicted. The word "capital" is derived from the Latin *caput*, *capitis*, meaning head; capital punishment originally meant (and in France and some other countries does yet) "punishment of the head." The head of the condemned was cut off by the axe or sword, but since 1792 by an instrument called the guillotine.

CARTE BLANCHE.—(White paper.) Unlimited authority. The signature of one or more persons on a white paper, leaving space over the names for a note or other writing, which some one is authorized to fill up. Notes and checks are frequently signed in blank and are binding on the party signing them, but the blank must be filled up by the very person authorized.

CASTRATION.—The act of gelding or depriving of the testicles. When performed maliciously upon a man it is mayhem and punished generally in this country by fine and imprisonment.

CASUALTY.—Inevitable accident.

CAUSE OF ACTION.—Matter for which an action may be brought.

CAVEAT.—*In Patent Law.* A legal notice not to issue a patent of a particular description to any other person without allowing the caveator opportunity to establish his priority of invention.

CAVEAT EMPTOR.—(Latin—let the purchaser take care.) Used generally in the sale of personal property without any express warranty.

CERTIFIED CHECK.—A check recognized and endorsed as good for the amount of money therein specified, by the proper officer of the bank or firm upon which it is drawn. A check is usually certified by the cashier, or other authorized officer, stamping upon its face the words, "Good when properly endorsed," and signing his name to it.

CERTIORARI.—A writ issuing out of chancery, or a superior court, to call up the records of an inferior court, or remove a cause there depending, in order that the party may have more sure and speedy justice, or that errors and irregularities may be corrected. It is obtained upon complaint of a party that he has not received justice, or that he can not have an impartial trial in the inferior court.

CHARACTER.—The sum of qualities which distinguish one person from another. Also defined as "the opinion generally entertained of a person by those who are acquainted with him." The most common motive for introducing a man's character and conduct in proof before a jury is to impeach or confirm the veracity of a witness. It is also done to afford a presumption that a particular party has not been guilty of crime charged; also to effect damages where the amount depends on the character of an individual.

CHASTITY.—Purity from all unlawful sexual intercourse.

A woman may defend her chastity by taking the life of her assailant.

CHATTEL.—Every species of property whether movable or immovable that is less than a free hold.

CHILD.—The son or daughter in relation to father and mother.

*Illegitimate children*—bastards.

*Legitimate children*—born in lawful wedlock.

*Natural children*—illegitimate children.

*Posthumous children*—born after the death of the father.

CHOSE.—(*French, thing.*) Personal property.

CHOSE IN ACTION.—A right to recover a debt, or money, or damages, which can not be enforced without action.

CITIZEN.—*In American Law.* One who under the Constitution and Laws of the United States has a right to vote for representatives in Congress, and is qualified to fill offices in the gift of the people. Also, and more generally, any native born or naturalized person, of either sex, who is entitled to full protection in the exercise and enjoyment of private rights.

CODE.—A body of law established by the legislative authority of the State.

CODICIL.—Some addition to, or modification of, a last will and testament. The derivative meaning is "a little will." See *Wills*.

COERCION.—Constraint, compulsion, force.

COHABIT.—To live together in the same house, claiming to be husband and wife.

COLLATERAL SECURITY.—Property or contracts transferred to insure the performance of a principal engagement. When money is borrowed, bonds are frequently deposited with the lender as collateral security to insure its payment.

COLLUSION.—An agreement between two or more persons to defraud a third person of his rights or to obtain an object

forbidden by law. Collusion vitiates and makes void every act infected with it.

**COMMERCIAL LAW.**—This branch of law embraces those divisions which relate to the rights of property and relations of persons engaged in commerce.

**COMMON CARRIERS.**—Those who carry goods for hire, indifferently, for all persons.

**COMMON CARRIERS OF PASSENGERS.**—Those who carry persons for hire and are bound to carry all who offer. Unexpected press of travel, and means exhausted, would excuse them.

**COMMON LAW.**—The law that receives its binding force from immemorial usage and universal reception. It is to be distinguished from statute law which derives its authority from legislative enactment, and its rules and principles are only found in the records of courts and in the reports of judicial decisions.

**COMMON NUISANCE.**—One which effects the public in general and not only some particular person.

**COMMON PLEAS.**—In England, the name of a court having jurisdiction, generally of civil actions. Many of the States of the United States have a court of this name, but generally they have both civil and criminal jurisdiction, sometimes extending over the whole State, but more frequently confined to a single county. It is a court of original and general jurisdiction, for the trial of issues of fact and law.

**COMPETENCY.**—The legal fitness of a witness to be heard on a trial. That quality of written or oral evidence which entitles it to be heard on the trial of a cause.

**COMPOSITION.**—The agreement between debtor and creditor whereby the creditor agrees to take a part of the amount due him in satisfaction of the whole.

**COMPOUNDING A FELONY.**—The act of a party injured in



agreeing with a thief or felon that he will not prosecute him if he will return the goods stolen, or in taking a reward not to prosecute.

**COMPULSION.**—Forcible inducement to the commission of an act.

Compulsory acts are not generally binding; but when a man is compelled by lawful authority (as a court) to do that which he ought to do, the compulsion does not effect the validity of the act. But if the court compelled a man to do an unlawful act it would be void.

**CONCEALMENT.**—The improper withholding by one party to a contract from the other of any fact or circumstance which in justice ought to be known.

**CONDITIONS.**—Terms of a contract.

**CONNIVANCE.**—An agreement, given indirectly, that something unlawful shall be done by another.

**CONSTITUTION.**—The fundamental law of a free country; the organic law which secures the rights of the citizen and determines his principal duties. The Constitution of the United States is the supreme law of the country.

**CONSTRUCTION.**—The determining of the meaning and application to the case in question of the provisions and conditions of a statute, will, or other instrument, or of an oral agreement.

**CONVEYANCE.**—The transfer of the title of land from one person to another.

**COPY.**—A true transcript of an original writing.

**COPYRIGHT.**—The exclusive privilege, secured according to certain legal forms, of printing, publishing and selling copies of writings or drawings.

**CORAM NON JUDICE.**—Before one who is not a judge, or one who has no jurisdiction over the particular case or subject matter.

**CORPORATION.**—A body consisting of one or more natural persons, formed and authorized by law to act as a single person, usually for some specific purpose, and endowed by law with the capacity of perpetual succession.

**CORPUS DELICTI.**—The essence of the crime.

**COURT OF EQUITY.**—A court which administers justice according to the principles of equity.

**COURT.**—A body in the government to which the public administration of justice is delegated. The judge or judges themselves, when duly convened, are addressed as "The Court."

**COURT OF NISI PRIUS.**—A court of original civil jurisdiction in the city and county of Philadelphia. It is held by one of the judges of the Supreme Court of the State. Jurisdiction, \$500 or over.

**COURT OF OYER AND TERMINER.**—The name of courts of criminal jurisdiction in some States, as New York, Georgia and some others.

**COURT OF PROBATE.**—A court which has jurisdiction in the probate of wills and in the management and settlement of estates of decedents and control of minors' estates, and other persons who are under special protection of law.

**COVENANT.**—A contract, under seal.

**COVERTURE.**—The condition or state of a lawfully married woman.

**CREDIBILITY.**—Worthiness of belief. The jury determines the credibility of witnesses, the court their competency.

**CRIM. CON.**—An abbreviation for Criminal Conversation. It means adultery, or unlawful sexual intercourse with a married woman.

**CRIME.**—An act committed or omitted in violation of a public law, forbidding or commanding it. When the act is of an inferior degree of guilt it is usually called a misdemeanor.

**CRIMINAL LAW.**—That branch of jurisprudence which treats of crimes and offenses.

**CROSS-EXAMINATION.**—The examination of a witness by the party opposed to the party who called him.

**CURTESY.**—The life estate to which a man is entitled by common law, on the death of his wife, in the lands which she owned in fee simple during their coverture, provided they had lawful issue, born alive and capable of inheriting the estate.

**CUSTOMS.**—Taxes payable on goods imported or exported.

**DAMAGES.**—The indemnity recoverable by a person who has sustained an injury, through the act, default or negligence of another, either in his person, property or rights.

**DATE.**—The designation in an instrument of writing of the time when and the place where it was made.

**DAYS OF GRACE.**—Certain days, usually three, allowed to the acceptor of a bill or maker of a note in which to pay, in addition to the time contracted for in the bill or note.

**DE FACTO.**—Actually; in fact.

**DE JURE.**—Rightfully; lawfully; by legal title. A person who is actually performing the functions and duties of an officer would be an officer *de facto*, while the one who is legally entitled to the place but is deprived of it is an officer, *de jure*.

**DEAD-BORN.**—A dead-born child is considered in law as if it had never been conceived or born. *Non nasci, et natum mori, pari sunt.* (Not to be born and to be born dead are equivalent.)

**DECEDENT.**—A deceased person.

**DECLARATION.**—A statement in methodical and logical form of the circumstances that constitute a plaintiff's cause of action.

**DEED.**—An instrument in writing under seal which contains an agreement between parties competent to contract and which has been delivered by the party to be bound and ac-

cepted by the other. Most frequently used as the conveyance of real estate, but really applies to any other matter as well.

DEFAULT.—Failure to perform a contract. In practice it means the non-appearance of a party to a suit at court within the time prescribed by law.

DEFENDANT.—The party called upon to answer either in law or equity and in civil and criminal suits.

DEFICIT.—The deficiency that is discovered in the moneys handled or received by an accountant.

DELIVERY.—*In conveyancing*.—The transfer of a deed from the grantor to the grantee. *In Contracts*.—The transfer of the possession of a thing from one to another. *In Medical Jurisprudence*.—The act of a woman giving birth to her offspring.

DEMAND.—A request to do a particular thing specified, under a claim of right by the one requesting.

DEMISE.—The conveyance of an estate in fee, for life or for years. This word also means death, but this is a borrowed or correlative signification. The "demise of the King," Plowden says, meant only that in consequence of this disunion of the King's natural body from his body politic, the kingdom is transferred or *demised* to his successor, and so the royal dignity remains perpetual.

DEMURRER.—*In Pleading*. An allegation which admits the truth of matters alleged by the opposing party, but denies their sufficiency in law to maintain the issue, and refusing to proceed until the court decides the question. It means literally a stop or pause.

DEPONENT.—One who makes a deposition.

DEPOSITION.—The testimony of a witness reduced to writing, in due form of law, and by authority of some competent court, to be used on the trial of some question of fact in a court of justice. The opposing party has a right to notification of time and place of taking a deposition so they may be present and cross-examine.



DESCENT.—Title by descent is the title by which one person, upon the death of another, acquires the real estate of the deceased as his heir at law.

DEVISE.—A gift of real property by a person's last will and testament.

DEVISEE.—A person to whom a devise is made.

DEVISOR.—One who devises.

DISABILITY.—The lack of legal capacity, as infancy, insanity, etc.

DISCOUNT.—Interest withheld in advance from the amount of the loan.

DISHONOR.—A note or bill of exchange is dishonored by the refusal or neglect to pay it when due.

DISTRESS.—The taking of a personal chattel out of the possession of a wrong-doer, into the custody of the party injured, to procure satisfaction for the wrong done.—*Bouvier*.

DIVORCE.—The dissolution, or partial suspension, by law, of the marriage relation. See Chapter on Divorces.

DOCKET.—A formal record of court proceedings.

DOMICIL.—The place where a man has his true, fixed and permanent home, and to which whenever he is absent he has the intention of returning.

DOWER.—A widow's life interest in the lands and tenements of her husband.

DUPLICATE.—The double of anything.

DURESS.—Personal restraint, or fear of personal injury, used to compel a person to make a deed, or sign some paper; or commit some offense.

ELECTOR.—One who has the right to vote.

EMBEZZLEMENT.—The act of fraudulently removing and secreting personal property with the care and management of which the party has been entrusted, for the purpose of applying it to his own use.

EMBLEMENTS.—The right of a tenant to take and remove, after the termination of his tenancy, such products of the land as have resulted from his own labor. The annual crops, corn, potatoes, etc.

EMBRACERY.—An attempt to corrupt or influence a jury, by money, promises, threats, etc.

EMINENT DOMAIN.—The power of the government to take private property for public use.

ENCEINTE.—Pregnant.

EQUITY.—Natural justice. A branch of remedial justice, by and through which relief is afforded to suitors in causes where there is no relief at law.

EQUITY OF REDEMPTION.—A right which a mortgagor of an estate has of redeeming it after it has been forfeited at law for non-payment.

ESCROW.—A deed delivered to a stranger to be by him delivered to the grantee upon the happening of certain conditions. Upon the last delivery the transmission of title is complete.

ESTATE.—The degree, quantity, nature and extent of interest which a person has in real property.

ESTOPPEL.—The preclusion of a person from asserting a fact by his own previous conduct, inconsistent therewith.

EVICTION.—Depriving a person of the possession of his lands or tenements.

EVIDENCE.—That which tends to prove or disprove any matter in question.

EX OFFICIO.—By virtue of his office.

EX PARTE.—Of the one part.

EX POST FACTO LAW.—A law relating to the punishment of crime which makes an act criminal which was not a crime when it was committed; or which makes an offense punishable in a manner in which it was not punishable when it was com

mitted. The words mean literally, "by a law made afterward." The idea is to make a law to fit a particular case which has already happened. The Constitution of the United States says no *ex post facto* law shall be passed.

EXCEPTION.—*In contracts*.—A clause in a deed by which the grantor excepts something out of that which he granted before the deed. *In practice*.—Objections made to the decisions of the court in the course of the trial.

EXECUTOR.—One to whom a man commits by his last will the execution or carrying out of the provisions of that will.

EXEMPLARY DAMAGES.—Damages allowed as a punishment for torts committed with fraud, malice or violence.

EXEMPTION.—The right given by law to a debtor to hold a portion of his property free from liability to execution at the suit of a creditor, or to a distress from rent.

EXTORTION.—The unlawful taking by any officer, by virtue of his office, of anything of value that is not due him, or more than is due, or before it is due.

EXTRADITION.—The surrender by one sovereign State to another, on its demand, of persons charged with the commission of a crime within its jurisdiction, in pursuance of a treaty; or by one of the States of the United States to another, in pursuance of statutory law.

FACTOR.—A person employed to sell goods delivered to him, for a compensation, called commission. He always has possession of the goods and thus differs from a broker who sells by sample.

FALSE PRETENSES.—*In Criminal Law*.—False representations of facts made with a fraudulent design to obtain money, goods or merchandise with intent to cheat. The representation must be of a present, existing state of things or a past event. An assurance with reference to a future transaction will not amount to a statutory false pretense.

**FAULT.**—An improper act or omission which arises from ignorance, carelessness or negligence.

**FEE-SIMPLE.**—An estate of inheritance. It is the largest possible estate that a man can have, being an absolute estate in perpetuity. The word "simple" adds no meaning to the word "fee" standing alone, but it excludes all restriction as to the persons who may inherit it as heirs, distinguishing it from a fee-tail and from inheritable estates subject to collateral conditions.

**FELONY.**—An offense, originally in English Common Law, that was punished by a total forfeiture of lands or goods, or both, and capital or other punishment may be added according to the degree of guilt. The word has no clearly defined meaning in American law, but the statutes of nearly all the States define it fully and clearly. As a rule, however, in most of the States, as Massachusetts, New York, Ohio, it means a crime punishable by death or imprisonment in the State's prison, and no other.

**FEMALE.**—The sex which bears young. It is a general rule of law that the young of a female animal belongs to the one who owns the mother.

**FEUD.**—Land held of a superior on condition of rendering him services.

**FEUDAL LAW.**—A system of tenures of real property which prevailed in Western Europe during the middle ages. The feudal tenure was a right to lands on the condition of performing services and rendering allegiance to a superior lord.

**FIXTURES.**—Personal chattels affixed to real estate, which may be severed and removed by the party who has affixed them, or by his representative, against the will of the owner of the freehold.—*Bouvier*.

See "Deed to a Farm."

**FLOTSAM.**—Goods, which being thrown overboard from a ship to save the rest of the cargo or passengers, float.



FOETICIDE.—Criminal abortion.

FORECLOSURE.—A legal proceeding by which the mortgagor's right of redemption of the mortgaged property is closed forever.

FORFEITURE OF BOND.—A failure to perform the condition on which the obligee was to be excused from the penalty in the bond.

FORGERY.—The falsely making or materially altering, with intent to defraud, any writing which, if genuine, might apparently be of legal efficacy or the foundation of a legal liability.  
—*Bishop*.

The statutes of most of the States define forgery with great particularity and reference should be made to them.

FORNICATION — Unlawful sexual intercourse by an unmarried person with another, either married or not. Marriage distinguishes this offense from adultery.

FRANCHISE.—A special privilege conferred by government or individuals, and not belonging to the citizens by common right; *e. g.*, the elective franchise.

FRAUD.—The unlawful appropriation of another's property, with knowledge, by design, and without criminal intent. Fraud vitiates everything with which it is connected. When proved it avoids a contract *ab initio*. It is not of itself a crime, for want of criminal intent, though it may become such in cases provided by law. The statutes of the different States define frauds and their punishments.

FRAUDS, STATUTE OF.—“An Act for the Prevention of Frauds and Perjuries,” passed in the reign of Charles II., of England, the object of which was to require certain transactions to be in writing. Nearly all the States have adopted some of the many provisions of this celebrated statute.

FREEHOLD.—An estate of inheritance or for life.

FULL AGE.—The age of twenty-one for both males and fe-

males in all States of the Union excepting Vermont and Ohio, where a female reaches full age at eighteen.

**GARNISHEE.**—A person who has or is thought to have money or property in his possession belonging to a defendant, which money or property has been attached in his hands and he has been garnished, that is, given notice of such attachment.

**GESTATION.**—*In Medical Jurisprudence.* The time during which a female, who has conceived, carries the embryo or foetus in her uterus. This is an extremely important question in determining the legitimacy of children for the inheritance of estates and other important matters may depend upon the settlement of that point. The *usual period* of pregnancy is ten lunar months, two hundred and eighty days, equal to nine calendar months and one week. Our laws fix no precise limit but admit the possibility of a birth occurring previous to or after the usual time.

• **GOOD WILL.**—The advantage or benefit enjoyed by a business beyond the value of capital, stock, etc., in consequence of patronage from regular customers, or on account of position, or celebrity, or reputation for skill or punctuality, or other accidental circumstances.

**GRAND JURY.**—A body of men consisting of not fewer than twelve nor more than twenty-four (in this country generally fifteen), who hear accusations in criminal charges and if the evidence is sufficient find an indictment against the party complained of. The grand jury hears only evidence against the person charged. The proceeding before the grand jury is not a trial but simply an examination of the evidence against the party to ascertain whether he should be presented to the court for trial. Twelve must concur in order to find a true bill, otherwise it must be ignored. Their operations must be kept strictly secret.

GRAND LARCENY.—See Larceny.

GRANT.—A transfer by deed of that which can not be passed by livery.

GRANTEE.—He to whom a grant is made.

GRANTOR.—He who makes a grant.

GROUND RENT.—Rent paid for the privilege of building on another man's land.

GUARANTEE.—He to whom a guaranty is made.

GUARANTOR.—He who makes a guaranty.

GUARANTY.—A collateral undertaking to pay the debt of another in case he does not. The Statute of frauds provides that such an undertaking must be in writing and signed by the party to be charged. See Surety.

GUARDIAN.—One who has legally the care and management of the person, or the estate, or both, of a child during minority.

GUARDIAN AD LITEM.—A guardian appointed to manage the interests of a minor in a suit.

HABEAS CORPUS.—(Latin, that you have the body.) A writ directed to the person who is detaining another and commanding him to produce the body of the prisoner at a certain time and place. The object is to inquire into the cause of a person's imprisonment with a view to protect his right to personal liberty. This is the most famous writ in the law. It is often called the great writ of liberty because for centuries it has been used to remove illegal restraint upon personal liberty.

HEAD OF A FAMILY.—One who provides for a family.

HEIR.—He who succeeds to the rights and occupies the place of a deceased person.

HEIR APPARENT.—One who has an indefeasable right to the inheritance, provided he outlive the ancestor.

HEREDITAMENTS.—Things capable of being inherited, whether corporeal or incorporeal, real, personal or mixed.

HERMAPHRODITE.—A person or animal having the sexual organs of both male and female. In law they are adjudged to belong to the sex which most prevails in them.

HIGH-WATER MARK.—The line on the shore reached by the waves of the sea when the tide is at its highest point.

HIGHWAY.—A passage, road or street which every citizen has a right to use.

HOMESTEAD.—The place of the house, or home place. Homestead farm does not necessarily include all the parcels of land he owns even if they all lie together. This depends upon the intention of the parties and if the term is used in a deed the extent of its application must be gathered from the context.

HOMICIDE.—The killing of a human being by a human being.

*Excusable Homicide.*—A killing under such circumstances of accident or necessity that the party is relieved from the penalty annexed to the commission of a felonious homicide.

*Felonious Homicide.*—A killing committed willfully and under such circumstances as to make it punishable. *Justifiable*

*Homicide.*—A killing committed with full intent but under such circumstances of duty as to render the act one proper to be performed. When the death is intentionally caused by the deceased himself he is called a *felo de se*.

HOUSE-BREAKING.—The forcible entry of a house for unlawful purposes by *day light*. See Burglary.

HOUSEHOLD.—Those who dwell under the same roof and constitute a family.

HOUSEHOLD FURNITURE.—All personal chattels that contribute to the use or convenience of the household or to the ornamentation of the house.

HOUSEHOLD GOODS.—Everything of a permanent nature used in or purchased for the house, except goods kept in the



way of trade. By permanent nature is meant things not consumed in their enjoyment.

HOUSEHOLDER.—Master or chief of a house.

HYPOTHECATION.—A right which has been conferred upon a creditor in or to a thing, which is not delivered into his possession, by which he has the power to cause that thing to be sold and the proceeds applied to the discharge of a debt due him from the person hypothecating. A pledge of goods to secure a debt without delivery of goods so pledged.

I. O. U.—A memorandum of debt used among merchants. It is not a promissory note, for it contains no direct promise to pay.

IDIOT.—A person without understanding or sense from his nativity, and whom the law presumes, therefore, never likely to attain any.

IGNORANCE.—Lack of knowledge. "*Ignorantia legis neminem excusat.*" Ignorance of the law excuses no one.

ILLICIT.—Unlawful; forbidden by law.

IMBECILITY.—Mental deficiency, usually congenital, but sometimes resulting from an obstacle to the development of the mind coming on in infancy.

IMPANEL.—To write the names of the jurors in a *panel*. See Panel.

IMPEACHMENT.—A written accusation against a public officer. In England the House of Commons prefers the charge of impeachment and the House of Lords tries the impeachment. In the United States the House of Representatives has the sole power of impeachment and the Senate the sole power to try all impeachments. It requires a two-thirds vote of the Senate to convict. When the President is impeached the Chief Justice presides at the trial. The penalty in cases of conviction shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit

under 'the United States. *In Evidence*.—The allegation and proof that a witness is unworthy of belief.

IMPOTENCE.—The incapacity for copulation or propagation of the species.

IN LOCO PARENTIS.—In the place of a parent.

IN PERSONAM.—A remedy in which the proceedings are against the person, distinguished from those which are against things, *in rem*.

IN RE.—In the matter of; as *in re* John Doe, in the matter of John Doe.

IN REM.—A form of action where the proceedings are against the thing; distinguished from personal actions, *in personam*.

IN STATU QUO.—In the same situation as; in the former state.

INCAPACITY.—The want of a quality legally to do something.

INCENDIARY.—One guilty of the crime of arson.

INCEST.—The carnal copulation or sexual intercourse of a man and woman related in the degrees within which marriage is prohibited by law.

INCUMBRANCE.—Any legal claim or lien upon land consistent with the passing of the fee.

INDEMNITY.—Something given to a person to prevent his suffering loss or damage. When the State takes private property for public use it indemnifies the owner.

INDENTURE.—A formal written instrument, containing a contract, between two or more persons, in different interests. It was formerly made in duplicate or one copy for each party and then the copies were laid together and indented with some instrument so they would always fit together. The indenting which gave the writing its name is now done away with.

INDICTMENT.—A written accusation against a person of a crime, preferred by a grand jury.

INDORSEMENT.—Writing one's name on the back of a promissory note or other negotiable instrument.

INDORSER.—One who indorses.

INFANT.—One under the age of twenty-one years.

INFANTICIDE.—The murder of a new born infant.

INFORMATION.—The instrument which contains the depositions of witnesses against the accused.

INFRACTION.—The violation of a law or a contract.

INFRINGEMENT.—Trespassing upon the rights secured to a person by a patent.

INHERITANCE.—A perpetuity in lands to a man and his heirs. The property which is inherited is also called an inheritance.

INJUNCTION.—A prohibitory writ issued by a court of equity to restrain one of the parties to a suit in equity from doing an act which is deemed unjust or inequitable.

INSANITY.—Unsoundness of mind. *In Medical Jurisprudence.* The prolonged departure, without any adequate cause, from the states of feeling and modes of thinking usual to the individual in health.

INSOLVENCY.—The condition of a person who from any cause is unable to pay his debts.

INSTRUMENT.—The writing which contains some agreement, so called because it has been prepared as a memorial of what has been agreed upon. The instrument is the evidence of the agreement.

INSURANCE.—A contract by which one party undertakes for an agreed premium to indemnify another against loss on a specified thing by specified perils.

INTEREST.—*In Contracts.*—A man's right of property in a certain thing. *In Debts.*—The compensation paid by the borrower to the lender for the use of money.

INTERLINEATION.—Writing between the lines.

INTERPRETATION.—The explanation of the meaning of any signs used to convey ideas.

INTESTATE.—One who, though competent to do so, has made no will, or having made one, has made it null on account of defective form.

INVENTION.—The act of finding out or devising something new, something which did not exist before.

INVENTORY.—An enumeration in writing of the goods and chattels, rights and credits of a testator or an intestate.

ISSUE.—*In the Law of Realty.* All persons who have descended from a common ancestor. *In Pleading.*—A single, certain and material point deduced by the pleadings of the parties which is affirmed on one side and denied on the other.

JEOPARDY.—Peril; danger. The United States Constitution provides that a man shall not be put twice in jeopardy for the same offense. A prisoner is in jeopardy when a trial jury is sworn and impaneled.

JETTISON OR JETSAM.—Goods which, thrown overboard from a ship to save the rest of the cargo or passengers, sink.

JUDGMENT.—The conclusion of law upon facts found or admitted by the parties, or upon default in the course of the suit.

JURISDICTION.—The authority by which judicial officers take cognizance of and decide causes.

JURISPRUDENCE.—The science of law.

JURIST.—One versed in the science of law.

JURY.—A body of men who are sworn to declare the facts of a case as they are delivered from the evidence placed before them.

JUSTIFICATION.—*In Pleading.*—The allegation of matter of fact by the defendant, showing his legal right to do the thing complained of by the plaintiff.



**KEY.**—An instrument made for shutting and opening a lock. Keys of a house are real estate and go to the heir or the purchaser. Delivering the keys of a warehouse to a purchaser of goods locked up there, with a view of so delivering the goods, completes the delivery. Keys may be used as implements of housebreaking.

**KINDRED.**—Relations by blood. All kindred are: 1. Descendants, as children; 2. Ascendants, as father, mother; 3. Collaterals, as brother, uncle.

**LACHES.**—Negligence.

**LANDLORD.**—Popularly, one who owns lands or tenements which he rents out to others.

**LARCENY.**—The wrongful and fraudulent taking and carrying away by one person of the personal goods of another from any place, with a felonious intent to convert them permanently to the taker's own use and make them his property without the consent of the owner.

*Grand Larceny* and *Petit Larceny* are divisions of the crime based entirely upon the value of the thing stolen, and the division is fixed by Statute in the different States. In Ohio the taking of anything of the value of thirty-five dollars or more is grand larceny; under that petit larceny.

**LAW MERCHANT.**—The general body of commercial usages in matters relating to commerce.

**LAWFUL MONEY.**—Money which is a legal tender in the payment of debts.

**LEADING QUESTION.**—A question which suggests the answer desired. Leading questions are not permitted in examination in chief.

**LEASE.**—A contract for the possession and profits of lands and tenements, either for life or for a term of years, or during the pleasure of the parties.

**LEGACY.**—A gift by last will.

LEGAL TENDER.—That currency or money which has been made suitable by law for the purposes of a tender or offer in the payment of debts.

LEGATEE.—A person to whom a legacy is given.

LEGISLATURE.—The law making body of a State.

LEGITIMACY.—The state of one born in lawful wedlock.

LETTERS OF MARQUE AND REPRISAL.—A commission given by the government to a private individual to take the property of a foreign State, or of the citizens or subjects of such State, as a reparation for injury committed by that State or its subjects.

LEVY.—To raise; the raising of the money for which an execution has been issued.

LIBEL.—*In Torts*.—That which is written or printed, and published, calculated to injure the character of another by bringing him into ridicule, hatred or contempt.

LIEN.—A hold or claim which one person has upon the property of another as the security of some debt or charge.

LIMITATIONS.—Statutes prescribing the time within which a party having a cause of action may appeal to the courts for redress. See "Statutes of Limitations."

LIQUIDATE.—To pay; to settle.

LIQUIDATED DAMAGES.—Damages whose amount has been anticipated and agreed upon by the parties prior to the breach.

LITIGATION.—A contest in a court of justice to enforce a right.

LOAN.—A bailment of an article for use or consumption without reward. The loan of money is an exception, being usually for a reward. When an article is loaned for consumption it must be returned *in kind*, as, a loaf of bread. The property passes to the borrower. When the loan is for use the identical article must be returned, as a gun loaned for hunting. The property remains in the lender.

**LOSS.**—*In Insurance.*—The destruction of the property insured by the perils insured against, according to the provisions of the contract. If a house is insured against fire and should be blown to pieces by a tornado or swept away by a flood this would not constitute a loss within the policy.

**MAGNA CHARTA.**—The Great Charter of English liberties. It was wrung from King John by his barons, assembled in arms, on the 19th of June, 1215. It was given by the King's own hand on a little island in the river Thames, in the County of Buckinghamshire. The island is called to this day Magna Charta Island. Magna Charta has thirty-seven chapters. The most celebrated is chapter 29, which confirms the right to trial by jury.

**MAINTENANCE.**—Support; aid; assistance.

**MAJORITY.**—The condition of a person who has arrived at full age. *In voting.* The greater number; more than all the opponents.

**MALFAESANCE.**—The unjust performance of some act which the party had no right to do, or had contracted not to do.

**MALICE.**—*In Criminal Law.*—Doing a wrongful act intentionally, without cause or excuse.

**MANDAMUS.**—A writ, issuing generally out of the highest court of general jurisdiction in a State, requiring some person, corporation or inferior court within its jurisdiction, to do some particular thing specified, and which pertains to their office or duty.

**MANSLAUGHTER.**—*In Criminal Law.*—The unlawful killing of another without malice. Manslaughter differs from murder in lacking the essential elements of malice and premeditation. There being no premeditation, there can be no accessories before the fact. Manslaughter may be *voluntary*, as when the person intends to produce the injury, or *involun-*

*tary*, as that which occurs without the intention to inflict the injury but in the performance of an unlawful act. The different grades of homicide are defined and their punishments fixed by the statutes of the various States.

**MATURITY.**—The time when a note or bill becomes due.

**MAYHEM.**—*In Criminal Law.*—The maiming of a person by depriving him of any of his members which are necessary for his defense or protection, as the cutting off of a man's finger or hand, or striking out his eye.

**MEDICAL JURISPRUDENCE.**—That science which applies the principles of medicine and surgery to the settlement of doubtful questions which arise in courts of law.

**MESNE.**—Intermediate; the middle between two extremes.

**MESNE PROCESS.**—All writs necessary to a suit between primary process or summons and final process or execution.

**MINOR.**—One not twenty-one years old.

**MISCARRIAGE.**—*In Medical Jurisprudence.*—The expulsion of the embryo from the uterus within the first six weeks after conception. Between that time and the end of six months it is called abortion, and if soon after the sixth month and before full time it is called premature labor. These terms, miscarriage and abortion are commonly used without any reference to these divisions of time and in criminal law the act of destroying a foetus any time before birth is called procuring miscarriage.

**MISDEMEANOR.**—Every offense inferior to felony, punishable by indictment or particular prescribed proceedings.

**MISFEASANCE.**—The performance of a lawful act in an improper manner, by which another person receives an injury.

**MISPRISION.**—The concealment of a crime, as felony, treason. It is the duty of every good citizen knowing of a felony or treason having been committed to inform some magistrate.



**MISTAKE.**—Some unintentional act, omission or error arising from ignorance, surprise, imposition, or misplaced confidence.—*Story*.

**MITIGATION.**—Reduction of the amount of a penalty or punishment.

**MOIETY.**—The half of anything.

**MONARCHY.**—A government ruled either really or theoretically by one man, who is wholly set apart from all other members of the State.

**MONEY.**—The common medium of exchange in a civilized nation. The Constitution of the United States says that "the Congress shall have power to coin money;" and again that "no State shall coin money or make anything but gold and silver a legal tender in payment of debt." While these constitutional provisions seem to make the money of the country synonymous with coin, still the Supreme Court of the United States has decided that the notes issued by the government were legal and they have become an important part of our circulating medium.

**MORAL OBLIGATION.**—A duty which a person owes and ought to perform but which he is not *legally* bound to do.

**MORTGAGE.**—The conveyance of an estate or property by way of pledge for the security of debt, and to become void on the payment of that debt. The mortgagor usually retains possession if the thing pledged is real property.

**MURDER.**—*In Criminal Law.*—The willful killing of any person with malice aforethought. In nearly all the States murder has been divided into degrees. A killing with malice and premeditation, as by poisoning or lying in wait or when the preparation for the act can be shown; or a killing committed in the attempt to perpetrate any arson, burglary, rape or robbery, is called in most of the States murder in the first degree. All other kinds of murder are considered murder in

the second degree. Some States have third degree murder, others manslaughter. The exact divisions of this crime in the States can only be learned by reading their respective statutes.

**MUTINY.**—Insurrection against constituted authority, particularly military or naval authority; concerted revolt against the rules of discipline.

**NATION.**—An independent body politic.

**NATURALIZATION.**—The act by which an alien becomes a citizen of the United States.

**NEGOTIABLE.**—*In Mercantile Law.*—A contract which is capable of being transferred by endorsement and delivery (if made to A or order), or by delivery alone (if made to A or bearer), the assignee in either case having the right to sue on the contract in his own name.

**NEXT OF KIN.**—A term used to designate the relations of a party who has died intestate.

**NIGHT.**—That space of time during which the sun is below the horizon of the earth, except a short period called commonly twilight, before rising and after setting, during which a man's face may be discerned. This is important sometimes in determining the crime of burglary, which can only be committed in the *night time*. If the face can be recognized by the fading sunlight it is not night and a breaking and entering another's house at that time is not burglary but housebreaking.

**NOLLE PROSEQUI.**—(Latin.—To be unwilling to prosecute.) An entry made on the record by which the public prosecutor declares that he will not proceed against a defendant charged criminally, or a plaintiff, that he will not proceed against the defendant in a civil action. A prosecutor can enter *nolle pros.* before the jury is impaneled or after conviction without the consent of the defendant, but not after the jury is impaneled.

**NOMINAL DAMAGES.**—A trifling sum awarded to a plaintiff who has sued for damages and shown a breach of duty on the part of defendant but no serious loss resulting therefrom.

**NONSUIT.**—The name of a judgment given against a plaintiff, 1, when he abandons his cause or absents himself from court when called and allows judgment for cost to be entered against him; or 2, when he has given no evidence on which a jury could find a verdict. A nonsuit is no bar to another action for the same cause.

**NOT PROVEN.**—*In Scotch Criminal Law.*—A verdict sometimes given by a Scotch jury when the evidence against a prisoner was so strong that they did not dare acquit him and yet not sufficient to convict. This verdict had the effect of acquittal in that the defendant could not be tried again for the same offense, yet the effect upon his reputation was far different, for it cast an indelible stigma upon his name.

It was as if the jury should say, "We believe him guilty but can't prove it."

**NUDUM PACTUM.**—(Latin.—A naked contract.) A contract without any consideration.

**NUISANCE.**—Anything that unlawfully worketh hurt, inconvenience or damage.

**NULL.**—That which has no more effect than if it did not exist.

**NULLIUS FILIUS.**—A bastard; nobody's son.

**NUNCUPATIVE WILL.**—An oral will declared by testator *in extremis* (in his last moments) before witnesses and afterward reduced to writing.

**OATH.**—An outward pledge given by the person taking it that his attestation or promise to tell the truth is made under an immediate sense of his responsibility to God.

**OFFICE.**—A right to exercise a public function or employment and to take the fees or emoluments belonging to it.

ONUS PROBANDI.—The burden of proof.

ORDINARY CARE.—That degree of care which men of ordinary prudence exercise in taking care of their own property.

OYEZ.—The sheriff or other court officer opens court, and public criers sometimes call attention to a proclamation by repeating this word three times. It means “hear ye,” and is usually wrongfully pronounced O yes.

PANEL.—A schedule or roll containing the names of jurors summoned by virtue of a writ of *venire facias*.

PARLIAMENT.—The legislative branch of the government of Great Britain. It consists of the House of Lords and the House of Commons. Membership in the House of Lords is inherited. Membership in the Commons is by election by the people. The sovereign has no right of veto, Queen Anne being the last sovereign who exercised that prerogative.

PAROL.—(French—word, speech.) A term applied to contracts not under seal. Parol contracts may be written or verbal, but if written have no seal.

PAROL EVIDENCE.—Evidence delivered verbally by the witness.

PAROLE.—The agreement of persons captured in war that they will not again take up arms against those who captured them, either for a limited time or during the continuance of the war.

PARRICIDE.—The unlawful killing of father or mother; the murder of any one to whom reverence is due. Blackstone applies the word to one who kills his child.

PARTIES.—*To Contracts*.—Those persons who engage themselves to do the things set forth in the agreement. *To Suits in Law or Equity*.—The plaintiff and defendant.

PARTNERS.—Members of a partnership.

PARTNERSHIP.—A voluntary contract between two or more persons capable of contracting, for joining together their



money, goods, labor and skill, or any of these, in some lawful business, with an understanding that there shall be a division of profits between them.

**PATENT.**—A grant by which the United States secures to inventors for a limited time the exclusive use of their own inventions.

Also, the title deed by which the government conveys its lands.

**PAYMENT.**—The discharge in money of a sum due.

**PENITENTIARY.**—A prison for the punishment of convicts.

**PERIL.**—An accident by which a thing is lost.

**PERILS OF THE SEA.**—A term used in bills of lading. It refers to a class of dangers to goods carried which common carriers do not undertake to insure against by virtue of their general undertaking. The term seems to have been extended in its application in the United States to include *perils of the river*.

**PERISHABLE GOODS.**—Goods whose value decreases by being kept.

**PERJURY.**—The willful giving, under oath, in a judicial proceeding or court of justice, of false testimony material to the point at issue.

**PERQUISITES.**—Something derived from a position or office in addition to the regular salary or fee.

**PERSONAL CHATTELS.**—Things movable, which may be annexed to or attendant upon the person of the owner and carried about with him from one part of the world to another.

**PERSONAL PROPERTY.**—The right or interest less than a freehold that a man has in realty, or any right or interest in things movable.

**PETIT JURY.**—(Pronounced petty.) A jury of twelve men impaneled to try causes in a court of justice. Called petit in distinction from the grand jury, which see.

PETTY LARCENY.—In Ohio, larceny of sum less than thirty-five dollars. See Larceny.

PETTIFOGGER.—One who pretends to be a lawyer, but possesses neither knowledge of law nor principle.

PICKPOCKET.—A thief who steals from the pockets or person of another without putting him in fear.

PIRACY.—A robbery or forcible depredation on the high seas without lawful authority (as letters of marque) and done in the spirit of universal hostility. *In Torts*.—Plagiarizing or stealing from a book, engraving or other work for which a copyright has been taken out.

PIRATE.—A sea robber.

PLAGIARISM.—The act of appropriating the ideas and language of another and passing them for one's own —*Bouvier*.

PLAINTIFF.—The one who seeks a remedy at law for an injury to his rights.

PLEA.—*Equity*.—A special answer showing cause why the suit should be dismissed or delayed or barred. *In Law*.—The defendant's answer by matter of *fact* to the plaintiff's declaration. This differs from demurrer, which is an answer by matter of *law*.

PLEADING.—The stating in a legal form of the facts which constitute the plaintiff's cause of action or the defendant's ground for defense.

PLENIPOTENTIARY.—Possessing full powers.

POACHING.—Unlawful entering land in the night time, armed, with intent to take or destroy game.

POISON.—Any substance having an inherent injurious property which renders it capable of destroying life when taken into the system.

POLYANDRY.—The condition of a woman who has several husbands. Polyandry is legalized in Thibet only.

POLYGAMY.—The state of a person who marries another

with the knowledge that he already has two or more wives or that she has two or more husbands.

**POST MORTEM.**—After death.

**POSTHUMOUS CHILD.**—A child born after the death of its father, or when the Caesarean operation is performed after the death of the mother.

**POWER OF ATTORNEY.**—An instrument authorizing a person to act as the agent or attorney of the person granting it.

**PRACTICE.**—The conducting of suits in the courts, through their various stages, in the form and manner and according to the principles of law and rules laid down by the respective courts.

**PRECEDENTS.**—Legal acts, instruments or decisions which are deemed worthy to serve as rules or models for subsequent cases.

**PRE-EMPTION-RIGHT.**—The right given to settlers upon public lands of the United States to purchase them at the lowest price in preference to all others.

**PREGNANCY.**—The state of a female who has within her womb a fecundated germ which gradually develops. This subject presents itself to the attorney usually in one of two forms: 1. where an attempt is made to conceal pregnancy; 2. where an attempt is made to feign or pretend to be pregnant. The first may be done to avoid disgrace and secretly to accomplish the destruction of the foetus. The second may be attempted to gratify the wishes of a husband; to extort money from a man; to avoid or delay the death punishment; or to deprive the legal heir of his just claims. (This last can only, of course, be accomplished by carrying the imposition to a supposed birth and having a new-born child furnished to order to fill the requirement.) In legal cases involving these questions the signs of pregnancy become very important. For the benefit of those interested in either the legal or medical aspects

of the subject a short treatise has been prepared, which will be found in another part of this work.

PREMEDITATION.—A design formed to commit a crime or do some other act before it is done.

PRIMA FACIE.—At first view or appearance. *Prima facie* evidence of a fact will establish that fact in law unless rebutted.

PRIVIES.—Persons who have an interest together in any action or thing.

PROCESS.—The means of compelling a defendant to appear in court in both civil and criminal cases.

PROMISE OF MARRIAGE.—A contract mutually entered into between a man and a woman that they will marry each other.

PROMISSORY NOTE.—A written promise to pay a certain sum of money at a future fixed time unconditionally.

PROPERTY.—The right and interest a man has in lands and chattels to the exclusion of others.

PROSECUTOR.—The one who prosecutes another for a crime in the name of the State.

PROSTITUTION.—The common lewdness of women for hire.

PROTEST.—A solemn declaration in writing by a notary public, usually under seal, protesting that all parties liable for loss or damage by the non-acceptance or non-payment of a bill of exchange, or the non-payment of a note, will be held responsible to the holder of such instrument.

PUNISHMENT.—Some pain or penalty inflicted by warrant of law, and by judgment and command of some lawful court on a person for the commission of a crime or misdemeanor, or for failing to perform some act required by law.

QUACK.—An ignorant and unskillful practitioner of medicine or surgery. To call a regular physician a quack is actionable.



**QUARENTINE.**—Forty days. Ships from foreign ports thought to be infected with a contagious or malignant disease, were originally held off the shore forty days and not permitted to land or have any communication whatever. The period is now shorter, or whatever the authorities choose to make it. This restraint is termed quarantine. To break quarantine without authority is a misdemeanor.

**QUASH.**—To overthrow or annul. Defective indictments may be quashed; also irregular civil proceedings.

**QUASI.**—As if; similar to; resembling, but slightly different.

**QUICKENING.**—The sensation a mother has of the movement of the child in her womb.

**QUIT-CLAIM.**—A form of deed of the nature of a release.

**QUO WARRANTO.**—A writ by which the government attempts to recover an office or franchise from a person or corporation holding it. The writ commands the defendant to appear and show by what authority (*quo warranto*) he holds the office.

**QUORUM.**—The number of members of a legislative or any deliberative body required by its laws to transact business.

**RAPE.**—The carnal knowledge of a woman by a man forcibly and unlawfully against her will. Man in this definition means a male of the human species of the age of fourteen and upwards.

**REBELLION.**—The act of taking up arms traitorously against the government.

**RECEIPT.**—A written acknowledgement of the payment of money or the delivery of chattels.

**RECOGNIZANCE.**—An obligation of record, entered into before a court or officer duly authorized for that purpose, with a condition to do some act required by law which is therein specified.—*Blackstone*.

In civil cases the condition of a recognizance is that the party and his surety will pay the debt, interest and costs, recovered by the plaintiff under certain contingencies.

In criminal cases the condition is that the party shall appear before the court, at a specified time, to answer to such charges as are or shall be made against him, or that he shall keep the peace or be of good behavior.

REDRESS.—Satisfaction for an injury sustained.

RELEASE.—The conveyance of a man's interest in a thing to some other person who already has some interest therein or possession thereof. The operative words are "remise, release and forever quitclaim."

REMEDY.—The means employed to enforce a right or redress an injury.

RENT.—A certain profit issuing out of lands and tenements in return for their use.

REPLEVIN.—An action to regain possession of chattels which have been taken from the plaintiff unlawfully.

REPRIEVE.—The temporary withdrawing of a sentence of execution.

REPRISALS.—The taking by force by one nation of a thing which belongs to another in return or satisfaction for an injury committed.

REPUDIATE.—To refuse a right when offered. A more recent meaning is to refuse to pay; as the State has *repudiated* its debt.

REPUTATION.—The opinion generally entertained of a person by those who know him.

REQUISITION.—The demand made by the Governor of one State on the Governor of another for a fugitive from justice. See Extradition.

RESCUE.—Forcibly and knowingly freeing another from arrest or imprisonment.

**RESIDUE.**—That which is left.

**RESTITUTION.**—Restoring to the rightful owner what belongs to him.

**RETAINING FEE.**—A fee given to an attorney upon consulting him, in order to secure his future services.

**REVENUE.**—The income of the government from taxation, duties, etc.

**REWARD.**—An offer of recompense for the performance of some act for the public good. A person may be a witness in a criminal case although he expects to receive a reward upon the conviction of the prisoner.

**RIGHT.**—A well founded claim.

**ROBBERY.**—The felonious and forcible taking from the person of another, goods or money of any value, by violence or putting him in fear. Robbery is larceny from the person accompanied by violence or putting in fear.

**SALE.**—An agreement by which one of the contracting parties, called the seller, transfers possession of a thing and title to it to the other, called the buyer, for a stipulated price in money.

**SALVAGE.**—The compensation allowed for saving a ship and her cargo from peril; also, the goods and other property saved.

**SCILICET.**—That is to say; to wit; namely. It is usually written in an abbreviated form *ss.* It comes from Latin *scire*, to know, *licet*, it is permitted.

**SEA-SHORE.**—That space of land on the border of the sea, between high and low water mark.

**SEAL.**—An impression upon wax, wafer, or some impressionable substance. Most frequently now impressed into the body of the instrument itself without the wax or wafer. The notarial seal is recognized judicially all over the civilized world. The seal is used upon a legal instrument simply as a token of authenticity.

**SEARCH-WARRANT.**—A warrant requiring the officer to whom it is addressed to search a house, specified, for property alleged to have been stolen and secreted there. The officer must bring the goods, if found, and the body of the person occupying the premises, who must be named, before the justice issuing the warrant or some other legally authorized officer.

**SEDITION.**—*In Criminal Law.*—Raising commotions or disturbances in the State; a revolt against lawful authority.

**SEISIN.**—Possession with intention to claim a freehold interest.

**SELF-DEFENSE.**—The protection of one's person and property from injury. A man may repel force by force in defense of his person, property or habitation, against any one who attempts to commit a forcible felony, as murder, burglary, rape, arson, robbery. He is not required to retreat, but may resist and even pursue his adversary until he has secured himself from all danger.

**SENILITY.**—The state of being old.

**SENTENCE.**—A judgment or judicial declaration made by a judge in a cause. Usually judgment is applied to civil and sentence to criminal cases.

**SHERIFF.**—A county officer, representing the executive power of the State in his county.

**SIGHT.**—Presentment. Used on bills of exchange and drafts.

**SIMONY.**—The selling and buying of holy orders.

**SINE DIE.**—Without a day. Courts and legislative bodies adjourn at the close of the sessions *sine die*, without any day fixed for reassembling.

**SLANDER.**—Words spoken or written of a defamatory, false and malicious nature, which are injurious to the character of another. Injury to character is the ground of all liability to an action.



**SODOMY.**—A carnal copulation by human beings with each other in an unnatural manner, or with a beast. It may be committed between any two persons who both consent, even between husband and wife, and both may be indicted. Penetration of the mouth is not sodomy.

**SOLVENCY.**—The condition of a person who is able to pay all his debts.

**SOUND MIND.**—That condition of mind which is adequate to reason and arrive at correct conclusions upon ordinary subjects.

**SPECIALTY.**—A writing sealed and delivered containing an agreement. The seal is the essential thing to constitute the writing a specialty.

**SPECIFIC PERFORMANCE.**—The actual carrying out of the express provisions of a contract by the party bound to perform them. If one of the parties to a contract refuse to fulfill his engagement a court of law will usually award damages to the injured party. Sometimes, however, damages are not a competent remedy. Then the injured party goes into a court of equity and asks for a specific performance of the contract.

**Ss.**—See *Scilicet*.

**STATUTE.**—A law established by act of legislature.

**STAY OF EXECUTION.**—The period during which no execution can issue on a judgment.

**STERILITY.**—Barrenness; incapacity to produce a child.

**STIPULATION.**—A material condition in a contract.

**STOPPAGE IN TRANSITU.**—A resumption by the seller of the possession of goods not paid for, while on their way to the purchaser and before he has obtained actual possession of them.

**SUBORNATION OF PERJURY.**—Procuring another to commit legal perjury. The false oath must actually be taken.

**SUBPŒNA.**—(Latin—*under penalty*.) A writ commanding a person to appear in court to give testimony, under penalty.

**SUFFRAGE.**—Vote; act of voting.

**SUICIDE.**—Self-destruction.

**SUIT.**—An action in a court of justice.

**SUMMONS.**—A writ notifying a party to appear in court and answer to a complaint made against him.

**SUMPTUARY LAWS.**—Laws relating to the personal and family expenses, intended to restrain excess in food, drink, clothing, furniture, etc.

**SUNDAY.**—The first day of the week. In most States it begins at 12 o'clock on the night between Saturday and Sunday and lasts twenty-four hours. In some of the New England States it begins at sunset Saturday evening and ends same time next day. In some States contracts made on Sunday are void, but in general they are binding if good in other respects. Notes and bills of exchange falling due on Sunday should be paid on Saturday.

**SURETY.**—A person who binds himself for the payment of a sum of money, or for the performance of something else, for another, who is already bound for the same.

**SURETYSHIP.**—An undertaking to answer for the debt, default or miscarriage of another, the surety becoming bound as the principal or original debtor is bound. Suretyship differs from guaranty in this: suretyship is a primary obligation to see that the debt is paid, while guaranty is a collateral undertaking, essentially in the alternative, to pay the debt if the debtor does not pay it. A surety may be sued as a promisor. A guarantor must be sued specifically on his contract. Guaranty applies only to contracts under seal. Suretyship applies to all obligations either under seal or by parol.

**TACIT.**—Silent; implied but not expressed.

**TARIFF.**—Customs, duties or tribute payable on merchandise to the general government.

**TAX.**—A contribution imposed by the government on individuals for the support of the State.

**TENANT.**—One who holds or possesses lands or tenements temporarily which belong to another. The terms of the occupancy are usually set forth in an instrument called a lease.

**TENDER.**—An offer to deliver something, or pay something in accordance with a contract, and in such a way as to require no further act by the party making the offer to complete the transfer.

**TENEMENT.**—Everything of a permanent nature that may be holden.

**TENURE.**—The mode by which a man holds an estate in lands.

**TESTAMENT.**—A will.

**TESTATOR.**—One who has made a testament or will.

**TESTIFY.**—To give evidence according to law.

**THIRD PARTIES.**—Persons who are not parties to a contract or agreement by which their interest in the thing conveyed is sought to be effected.

**TITLE.**—The means whereby the owner of lands has just possession of his property. This definition applies to lands only.

**TITLE DEEDS.**—Those deeds or instruments which are evidence of the title of the owner of an estate.

**TORT.**—A private wrong or injury, independent of contract.

**TRAVERSE.**—To deny.

**TREASON.**—Against the United States, according to the Constitution, consists in "levying war against them, or in adhering to their enemies, giving them aid and comfort." It can only be committed by a person who owes allegiance to the government. In monarchies, an attempt to kill the king is treason.

**TREATY.**—A compact or agreement between two or more independent nations with a view to public welfare.

**TRESPASS.**—Any unlawful act, committed with violence, to the person, property or rights of another. Also, and more commonly, any unauthorized entry upon the realty of another to the damage thereof.

**TRIAL.**—The examination before a competent tribunal, according to law, of the facts put in issue in a cause.

**TRIBUNAL.**—A court of justice.

**TROVER.**—An action to recover damages for goods or personal chattels which have been wrongfully converted to the use of another.

**TRUST.**—A right of property held by one person for the benefit of another.

**TRUSTEE.**—A person in whom some estate, interest or power in or effecting property is vested for benefit of another.

**TRUSTEE PROCESS.**—A means of attaching goods, property and credits in the hands of a third person, for the benefit of the attaching creditor.

**ULTRA VIRES.**—Beyond their power. A term applied to those acts of corporations which are beyond the scope of their powers as laid down in their charter or articles of incorporation. As a rule such acts are void.

**USAGE.**—Long and uniform practice.

**USE.**—A right to take the profits of land of which another person has the legal title and possession. The person who has this right is called the *cestui que use*.

**USURY.**—The excess of interest over the legal rate charged for the use of money.

**UTTER.**—To offer, to publish. Said of counterfeit money. To utter and publish a counterfeit note is to represent that the note offered is good. It is not necessary for the note to pass to complete the offense of uttering.



**VAGRANT.**—An idle person who has no settled home; who refuses to work and goes about begging; commonly called a tramp.

**VALID.**—Strong; of binding force.

**VALUE.**—Worth; utility. Political economists use the word in two senses. 1. *Intrinsic Value.*—The utility or adaptation of an object to the wants of man. 2. *Exchangeable Value.*—Its worth in purchasing other goods. An object may have great power to minister to our wants, great utility, and no exchangeable value, as water.

**VARIANCE.**—A disagreement between the allegation and the evidence, or between two parts of a legal proceeding that ought to agree together.

**VENDOR.**—The seller.

**VENDOR'S LIEN.**—An equitable lien allowed the vendor of land for the purchase money where the deed expresses, contrary to the fact, that the money has been paid.

**VENUE.**—A neighborhood, place or county, in which an injury was done or crime committed, and from which the jury must be drawn to try the issue.

**VERDICT.**—The unanimous decision of a jury reported to the court, on the matters submitted to them in the trial of a cause.

**VERSUS.**—Against; usually written *vs.* or *v.*

**VEST.**—To give an immediate fixed right of present or future enjoyment.

**VETO.**—The refusal of an executive officer, whose assent is necessary to perfect a law passed by the legislature, to give such assent.

**VIDELICIT.**—(Latin—*to wit; namely.*) Usually contracted to *viz.*

**VIOLENCE.**—The abuse of force; that force which is employed against common right, against law and against public liberty.

VOID.—That which has no force or effect.

VOIDABLE.—That which has some force or effect, but which in consequence of some inherent quality may be legally annulled or avoided. An infant's note or contract with an adult is a familiar example. The infant may avoid or confirm the contract upon coming of age.

VOIR DIRE.—(French—*to say the truth*.) A preliminary examination of a witness to ascertain whether he is competent.

WAIVER.—The refusal to accept a right.

WARD.—An infant placed by authority of law in the care of a guardian.

WAREHOUSE.—A place adapted to the reception and storage of goods and merchandise.

WARRANT.—A writ issued by a justice of the peace or other authorized officer and directed to a constable or other proper person, ordering him to arrest a person therein named, charged with committing some offense, and bring him before the justice.

WARRANTY.—*In Real Property*.—A covenant by which the grantor of an estate and his heirs are bound to warrant and defend the title to the lands sold. In general contracts it is an engagement or undertaking that a certain fact regarding the subject of a contract is, or shall be, as it is declared or promised to be.

WAY-BILL.—The description of goods sent with a common carrier by land; if the goods are carried by water the instrument is called a bill of lading.

WILL.—The disposition of one's property to take effect after death.

WITNESS.—One who testifies under oath to what he knows of his own knowledge, not acquired by hearsay.

WRIT.—A mandatory precept issuing from a court of law

in the name of the State and requiring the defendant to do something therein mentioned.

WARD IN CHANCERY.—An infant or lunatic who is under the protection of the court of equity or the court of chancery.

WITHOUT PREJUDICE.—Anything said or done *without prejudice* is without affecting any one's rights in the controversy or question at issue.

WITHOUT RECOURSE.—These words are sometimes written by an endorser of a promissory note beneath his name when he desires to relieve himself from liability as an unconditional endorser. They mean simply that the purchaser of the note shall not have recourse upon the endorser in case the note is not paid when due.

## CHAPTER II.

### REAL PROPERTY.

**A**LL property is divided into two great classes, *real* and *personal*. The names of these divisions were derived from the nature of the remedy in case an owner was deprived of possession. In the case of lands if the plaintiff was successful he recovered the *real* thing lost, that is, the actual lands or tenements of which he was dispossessed. If the thing was a chattel his remedy was against the *person* of him who took it away. Hence the terms *real* and *personal*.

It is frequently difficult to distinguish between real and personal property, although there are many things that are always personal, and a few that are always real. Land is always real. As a rule every thing erected upon land, or growing upon it, or lying beneath the surface of the land, is real. But a house may become personal, as if a man erect one on the land of another on certain conditions, expecting to remove it. In order to make things built or erected on land real they should be erected or annexed by the owner of the land. Any machine or other thing so attached to a house that it can not be removed without destroying or injuring the house will pass with the house when sold unless specially reserved.

Keys, blinds, bolts, hinges, nails, and many other things are personal when on the merchant's shelf for sale, but become real when attached to a building.

Trees in a forest are real; trees planted by a nurseryman to be sold and transplanted are personal.

Crops ready for harvest are personal and may be levied upon as chattels. Crops or trees sold to be cut and carried



away are personal. When land is sold on which are growing crops the custom is to fix a future day for delivery by which time they may be removed.

Fence rails are real estate, whether in a fence or piled up to be used in a fence; but if piled up to be sold they are personal.

Rolling stock on railroads, as cars and engines, belong to the realty; the stock in a railroad, that is the stockholder's interest is personal.

As a rule a tenant may remove whatever he has affixed to leased premises provided he can do so without injury thereto. This right is not defeated by a sale of the premises by his landlord to another party. But the fixtures must be removed by the tenant before his term expires or he loses the right; his fixtures then become part of the realty. If the fixture is permitted to remain temporarily, with the landlord's consent, or if it is affixed to the land of another with his consent, it may be removed.

Realty is divided into, 1. Lands. 2. Tenements. 3. Hereditants. Lands include the soil itself, houses, trees, minerals, coal, water, etc.

Tenements are rights, interests and privileges in lands held so as to create a tenancy. Blackstone says "the thing held is a tenement, and the possessor of it a tenant, and the manner of possession is called tenure."

Hereditaments are things that can be inherited, as lands, tenements, anything real, personal or mixed that may descend to an heir. Hereditaments are corporeal and incorporeal. Corporeal when of a tangible or substantial nature; incorporeal when only an ideal right existing in contemplation of law, as the right of way through another's land, or the right of water through the land of another.

Various names are used to indicate the different degrees of interest that a man may have in lands, called an estate.

## FEE SIMPLE.

Fee simple is an estate of unlimited duration, and is absolutely unqualified in every respect, transmissible to the heirs of the owner absolutely and simply without any condition attached to the tenure. This is the largest estate a man can have in lands.

*Fee Tail* means a mutilated fee. It is a fee conveyed with restrictions as to its alienation. There is no fee tail in the United States.

## LIFE ESTATE.

Life estate is a freehold, not of inheritance, held by the tenant for his own life or the life or lives of one or more other persons; or for an indefinite period which may endure for the life or lives of persons in being and not beyond the period of a life. Life estates are created by deed, or devise, or act of law as in the case of dower and curtesy. An estate conveyed to a woman during her widowhood is a life estate, because she can hold it as long as she lives by not marrying. Same is true of an estate to a man and wife during coverture, or to a man as long as he resides in a certain place or as long as he shall maintain a park upon the land. A tenant for life may convey his interest by deed or sub-let the whole or any part of it.

*Emblements.*—The life tenant has rights to the profits of the annual crops to repay him for his labor. These annual crops are called emblements. This right accrues to his executor or administrator in case of his death. Emblements are those products which are sown or planted in one part of the year and reaped in another part of the same year, as corn, wheat, barley, potatoes, flax, beans, etc. Grass and clover are not emblements because not of annual planting. Trees raised by nurserymen are a seeming exception, being emblements,

because they may be transplanted in one year or more. The crop must have been planted in the life and occupancy of the tenant, else he can not claim emblements. A tenant whose term is certain can not claim emblements, for if a man plant a crop which he knows he can not gather before his term expires he must lose his labor—his successor gets the benefit. If a tenant abandon his tenancy he loses his rights to emblements, but not so if the lessor expel him.

*Waste.*—As to timber a tenant may cut what he needs for present use but not for future use; that would be waste. He may not cut wood either to be used off the premises. Neither can he sell wood or timber, or coal or ore of any kind though he need the proceeds for his support. Neither can he make brick out of the land for sale, nor ware out of clay under the soil.

*A Tenant at Sufferance* is one who has come into possession by a lawful demise but after his term is ended holds over wrongfully, continuing possession. He has no rights, only naked possession and may be removed without notice. He is not entitled to emblements. If a tenant sell his growing crops and then terminate his tenancy by his own act the person who purchased the crops has no claim for emblements. The right of emblements carries with it the rights to enter upon the land, cultivate the crop if a growing one, cut and harvest it, and if interfered with in the exercise of these rights by the landlord or any other, he has an action for damages.

Questions of Emblements and Waste are determined to a great extent by the customs and usages of different localities and by the statutes of the State. If a tenant commit a waste the one to whom the estate reverts has an immediate action against him. Continued waste may be prevented by injunction.

The two most important classes of life tenancy are Dower and Curtesy. For the meaning of these terms see "Definition of Legal Terms."

A widow has no dower by the common law in an estate of her husband's for a term of years however long. In Missouri however by statute her right attaches to a leasehold of twenty years, and many other States have similar statutes. The right of dower extends to one-third of all lands, tenements and hereditaments of which her husband may have been seized during coverture in fee or in tail. The laws of the place where the property is located determine her right of dower, not the laws of her residence. She is not entitled to dower in real estate purchased by a firm of which her husband was a partner, and held for partnership purposes until the partnership debts have been paid. A husband may defeat dower in an estate which he purchases by having it conveyed to trustees for himself or his heirs. The requisites to support dower are legal marriage, seisin and death of husband.

A woman may bar her dower in most States by elopement and adultery; in others it requires divorce when the woman is in fault; if she is innocent the statutes of most States preserve her rights. She can sign away her right of dower if it is expressly so stipulated in the deed and in a few States a joint conveyance by husband and wife will bar her dower. If a mortgage given by husband before marriage, or by a husband and wife after marriage, is foreclosed all right of dower is barred. In some States, however, the wife must be made a party to the foreclosure proceedings. In some States a wife's dower is subject to liens of husband's creditors. Land conveyed by the husband for public use, as a school or street, is not subject to dower.

The husband's interest, or curtesy, is subject to all incumbrances under which the wife held the estate. This interest



is liable for his debts. He, as tenant by curtesy, is subject to all the limitations and obligations imposed upon other life tenants. He becomes tenant by curtesy immediately upon the death of his wife and has nothing to do to consummate his title; while the widow must have her dower set out for her by process of law.

When it is desired to convey an estate to a married woman for her own use and to be free from her husband's control, use the words, "to her *sole and separate use* forever."

In most of the States the husband must join the wife in conveyances of her real estate. If he improves his wife's estate the law infers that it was done for his wife's benefit and he can not recover for it unless there is a special statute. If the wife die without issue the husband has no claim on her estate against creditors or next of kin, except the right of emblements.

## DEEDS.

A deed must contain first the full names of the grantor and grantee, that is the seller and buyer; then a statement of the consideration, money, exchange of property, etc., for the conveyance; also an acknowledgement of the receipt of the same; then a full description of the property. After this follows the *Habendum clause*, which begins, "To have and to hold;" this clause defines the estate conveyed, whether for *years, life* or *forever*. Next in most deeds comes the *Warranty clause*, which begins: "And I *will*, and my executors and administrators shall *warrant and defend*," etc.

The *Testimonium clause* follows, beginning: "*In witness whereof*," etc. Then follow the date, signature and seal—(the seal is not required in all States), then the signature of the witnesses (when required), then, last, the acknowledgement. This is done before a Notary Public or Justice of the Peace, and acknowledges the instrument to be the free act and deed of the grantor.

Sometimes the grantor desires to reserve something to himself rising or issuing out of the thing granted. This is done by inserting immediately after the *Habendum clause*, what is called a *Reddendum clause*, which begins thus: "Saving and excepting." An accurate description of the thing reserved should follow.

If there are any conditions to defeat, extend or commence the estate, they should be stated with great clearness, and should follow the *Habendum clause* and usually begin with the words: "Provided, however," etc. The most important of these is the redemption clause in a mortgage. If the grantor is a married man it is necessary in most States for the wife to release her dower. This should follow the Warranty clause.

*Quitclaim deeds* differ from warranty deeds in their wording in three important points: 1. Instead of the words "*give, grant, bargain, sell and convey*," the quitclaim has the words, "*remise, release and forever quitclaim*." 2. In the encumbrance clause, after the word encumbrance should follow the words, "made or suffered by me." And state what mortgages there are on the estate, if any. 3. In the warranty clause, after the words, "demands of all persons," add these words, "*claiming by or through or under me, but against none others*."

Trust deeds are made for the purpose of creating a trust in one party for the benefit of another. A father may desire to give his daughter a farm upon the eve of her marriage, but not desiring her husband to have any control over it, or fearing her extravagance, he will deed it to a friend, in whom he has confidence, in trust for his daughter's use, and under such restrictions as he may see fit to impose.

#### FORM OF WARRANTY DEED.

KNOW ALL MEN BY THESE PRESENTS, That John Doe, of Covington, in Kenton County, State of Kentucky, in consider-

ation of Five Thousand Dollars to me paid by William Coe, of Newport, in Campbell County, State of Kentucky, the receipt whereof is hereby acknowledged, does by these presents give, grant, bargain, sell and convey unto said William Coe, his heirs and assigns, a certain parcel of land, situated in Covington, in Kenton County and State of Kentucky, bounded and described as follows, viz: (*here give a full and complete description of the premises to be conveyed.*)

TO HAVE AND TO HOLD the above granted premises, together with all the privileges and appurtenances thereto belonging, unto the said William Coe, his heirs and assigns, and to their own use and behoof forever. And I, the said John Doe, for myself, my heirs, executors and administrators, do covenant with said William Coe, that I am lawfully seized in fee simple of the above granted premises, and that they are free from all encumbrances (*if any encumbrances, state them here, beginning Saving and Excepting*); that I have good right to sell and convey the same as aforesaid; and that I will, and my heirs, executors and administrators shall, WARRANT AND DEFEND the same to the said grantee, his heirs and assigns forever, against the lawful demands of all persons. (*If wife releases dower, insert release here.*)

IN WITNESS WHEREOF, I have hereunto set my hand and seal this, the 18th day of September, A. D. 1889.

Signed and Sealed in  
the presence of

\_\_\_\_\_ L. S.

\_\_\_\_\_ L. S.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

State of Kentucky, }  
 Kenton County, } ss.:

The above named John Doe personally appeared before me this 18th day of September, A. D. 1889, and acknowledged the foregoing instrument to be his free act and deed.



WILLIAM EVARTS, Notary Public,  
 Kenton County, Kentucky.

#### FORM OF RELEASE OF DOWER.

"And for the consideration aforesaid, I, Theresa Doe, wife of said John Doe, do hereby release unto said grantee, and his heirs and assigns, all right of, or to, both dower and homestead in said premises. In witness whereof we have hereunto set our hands and seals this, the 18th day of September, A. D. 1889."

If the husband release curtesy the same form is used, substituting husband for wife, and curtesy for dower.

The tendency of modern law is to simplicity in legal forms, and now nearly all the States have a short form of deed.

#### INDIANA DEED—SHORT FORM.

THIS INDENTURE WITNESSETH, That James Monroe, of Wayne county, in the State of Indiana, conveys and warrants to John Simpkinson, of Brown county, in the State of Indiana, for the sum of Three Thousand Dollars (\$3,000), the following Real Estate, in Wayne county, in the State of Indiana, to-wit: *(Here describe the property to be conveyed.)*

IN WITNESS WHEREOF, the said James Monroe has hereunto set his hand and seal this 18th day of September, A. D. 1889.

JAMES MONROE. [SEAL.]



State of Indiana, }  
Wayne County. } ss.:

Before me, Jesse C. Smith, a Notary Public, in and for said County, this 18th day of September, 1889, personally appeared James Monroe, the grantor herein, and acknowledged the execution of the annexed Deed.

Witness my hand and Notarial Seal this 18th day of September, A. D. 1889.

JESSE C. SMITH, Notary Public,  
Wayne County, Indiana.

SHORT FORM OF TRUST DEED.

KNOW ALL MEN BY THESE PRESENTS, That I, Thomas Benson, of Hamilton, county of Butler, State of Ohio, do hereby convey and fully warrant unto James J. Mitchell, of Cincinnati, Hamilton county, Ohio, and Peter Donahue, of Columbus, Franklin county, Ohio, in consideration of ——— dollars, to me paid by the said Mitchell and Donahue, the following described real estate, situated in ——— county, State of ———, and fully described as follows: (*here describe,*) to have and to hold the said granted premises in trust, nevertheless, for the following purposes to-wit: (*Here insert in full the purposes of the trust.*)

In witness whereof the said parties hereunto set their hands and seals this ——— day of ———, 18——.

————— L. S.

————— L. S.

————— L. S.

WITNESS: —————

ESTATES FOR YEARS.—LEASES.

The next estate in importance after a life estate is an estate for years which is usually brought into existence by an instrument called a lease. An estate for years is an interest in lands by virtue of a contract for the possession of them for

a definite and limited period of time. The contract is called a lease.

The one who lets the premises is the lessor. The one who rents or hires, the lessee. A lease takes effect on delivery. It must be for a shorter period than the duration of the interest of the lessor, otherwise he would sign away his entire interest in the lands and it would become an assignment. The granting of a lease always supposes that the grantor or lessor reserves to himself a reversion in the premises. A lease must be in writing and signed by both parties, otherwise it is considered only a tenancy from year to year, that is if rent is paid; if no rent is paid it is a tenancy at will. Most of the States have special statutes on the subject of leases. Nearly all require seals, but New Hampshire does not. In Virginia and Kentucky a lease for a term of more than five years must be sealed, and in Vermont and Rhode Island if it exceed one year. Massachusetts requires all leases for more than seven years to be under seal and recorded, otherwise they are not good against third parties without notice. Ohio requires for a lease for more than three years an acknowledgment and two witnesses.

The form of expression in writing a lease is not material so that it express the intention of the lessor to part with the estate in favor of the lessee, and the intention of the lessee to accept the same under the conditions imposed for a certain period. The technical words usually inserted are "*demise, grant and to farm let,*" if the premises consist of a farm; or "*demise and grant ;*" or "*lease, demise and let ;*" any of these or other words will suffice. The lease must describe in clear and exact terms the premises to be leased, for a mistake in this respect can not be corrected by parol evidence.

A lunatic, idiot or infant can not make a valid lease, although in some cases they may be lessees, as when it is for

their benefit or a necessity. An example would be a student, under age, hiring a room; it is a necessity.

If a person have no title to premises and lease them to another, and afterward acquire title, the law will not allow him to break the lease upon the ground that he had no title when the lease was made. This would be permitting him to take advantage of his own wrong. Neither would the lessee be allowed to shirk any of his duties or responsibilities under the lease because the lessor's title was not good when the lease was made. The law of *estoppel* applies in these cases.

Every well drawn lease contains certain conditions, the violation of which works the forfeiture of the lease. The most important of these are the payment of rent, the committing of waste, keeping in repair, insuring, etc. This forfeiture clause enables the lessor to re-enter and eject the tenant in any such event. But without this provision for re-entry the lessor would have no remedy, if rent were not paid, or waste were committed, except a suit for damages.

If the lessor desires to take advantage of the forfeiture clause for non-payment of rent he should make demand for rent on the very day it is due by the terms of the lease and before sunset, at the most public place upon the premises leased, that is the front door if possible, or of the lessee in person wherever he may be found. And if not at home demand must be made any way. If payment is tendered at any time during the day up to twelve o'clock at night the tenant is safe, as the law will compel the lessor to accept. If a tenant forfeits for non-payment of rent and afterward tenders payment and it is accepted this acceptance is a waiver of the broken condition; the landlord can not then eject him for that failure to pay although he may for some future remissness. The lessor, by covenant implied in the words *demise* and *grant*, warrants to the lessee quiet enjoyment during the term.

The lessor is not bound to make all necessary repairs unless so stipulated by express covenant, neither is he bound to remunerate the lessee for repairs made. If the lessor has contracted to make repairs and fails to do so the lessee is not thereby relieved from paying rent.

If no time is stipulated for the payment of rent it is payable at the end of the year.

The express covenants of a lease are always binding, even though the tenant assigns the lease, and the lessor accept rent from the assignee. Implied covenants end with the termination of the occupancy. Leases are always assignable unless expressly forbidden in the lease. The privilege of sub-letting is usually denied by a clause prohibiting it. The difference between an assignment and a sub-letting is correctly stated above. If the whole term or all the unexpired term of lease in either the whole or a part of the premises is demised it is an assignment and not a sub-letting; if the whole or a part of the premises is demised for a term which expires before the termination of the pre-existing estate, it is a sub-letting. A lease supposes a reversion to the grantor or lessor.

The formal parts of a lease, made as a deed and under seal, are: 1. The date, which usually fixes the time of beginning the term, unless some other time is named in the instrument. If the lease have no date the term will begin upon delivery of lease. 2. The names of the parties, which should be given in full. 3. The consideration of the contract, which should always be something, if only affection. 4. The description of the premises. 5. The rights and liabilities of the parties in respect to taxes, repairs, insurance, residence on premises, fixtures, etc. 6. Provision for forfeiture in case of waste, or refusal to pay rent.

It is the duty of the landlord or lessor to see that his tenant has quiet enjoyment of the premises. He must not erect a



nuisance to make the tenant's occupancy uncomfortable. He must pay the taxes, ground rent, interest on mortgage loans, etc., unless stipulated in the lease to the contrary.

The landlord has the right to enter upon the premises to ascertain if waste has been committed or injury done to the property, having first given notice to the tenant.

If a leased house is burned down the landlord need not rebuild it, but he can collect rent for the unexpired term, unless otherwise stipulated in the lease.

The tenant must take proper care of the premises, so that others will not be injured thereby; and return them to his landlord at the end of his term undiminished in value by any willful or negligent act of his. He is entitled to use all the privileges, easements and appurtenances belonging to the estate, and to all reasonable emblements that are attached thereto. He can maintain an action against any one who trespasses on his lands. He should make fair and reasonable repairs of all damages made or suffered by him, but he is not required to rebuild houses that have gone to ruin and decay during his tenancy; neither is he required to put on a roof, or do papering, painting or whitewashing, except it is necessary to prevent decay.

If the tenant is a farmer he is bound to keep the farm in husbandmanlike manner, preserving the timber and ornamental trees. If he neglect this he will be guilty of waste. He is liable for damage for all injuries occurring to strangers through his neglect to keep the premises in proper repair and safe condition, as cellar-ways left open, coal-holes uncovered, maintaining a nuisance, etc.

His principal duty is to pay rent. If he is in without any special agreement as to rent he will pay only for the time of his occupancy, but if he contracts to pay during the term he must do so, no matter how long it may be, and no matter if

the house burn down or be torn to pieces by a tornado. But if he be compelled to move by lawful act of his landlord rent ceases.

If the landlord sell the premises he does so subject to the tenant's right, and the tenant can not be removed by the purchaser. The tenant can not substitute another tenant in his place and thus escape his responsibilities.

A lease terminates with the expiration of the time named in the instrument. It may be made to terminate sooner in different ways: 1. By forfeiture for waste, etc., as above explained. 2. By the tenant purchasing or falling heir to the fee, for in either case the lease is merged in the inheritance. 3. By taking the premises for public uses or improvements. 4. When the premises are turned into a house of ill-fame, or used for other unlawful purpose.

A tenancy from year to year can only be terminated on the part of the landlord by notice to quit, in writing, signed by the person who has the right to immediate possession and not his agent. It requires the tenant to move from the premises and must be served on him personally. The length of time of notice varies in the States from six months to one month. Generally if a tenant rents by the week he is entitled to a week's notice; if by the month, to a month's notice; the landlord is entitled to the same notice from the tenant if he desires to quit.

After a tenancy has terminated if the tenant remain in the landlord should proceed by regular process of law to eject him. A new lease under seal to third party will facilitate matters.

#### FORM OF LEASE.

THIS INDENTURE, made the 1st day of March, in the year of our Lord 1889, *witnesseth*, that John Winn, of Albany, in

Athens County, and State of Ohio, does hereby lease, demise and let unto George L. Pake, of Marshfield, in Athens County, and State of Ohio, the following described premises: (*Describe fully.*) To hold for the term of five years from this 1st day of March, A. D. 1889, the said lessee yielding and paying therefor the rent of Two Hundred Dollars per annum, and said lessee promises to pay said rent in (*here insert times and amount of payments*), and to quit and deliver up the premises to the lessor, John Winn, or attorney, peaceably and quietly, at the end of the term, in as good order and condition (reasonable use and wearing thereof, fire and other unavoidable casualties excepted) as the same are now, or may be put in by said lessor, and to pay rent as above stated, and all taxes and duties levied thereon during the said term, or for such further time as the lessee may occupy the premises, and not make or suffer any waste thereof, nor lease, nor underlet, nor permit any other person to occupy or improve the same, nor make, nor allow to be made, any alteration therein unless with the consent of the lessor, in writing, and that the said lessor may enter said premises to view or to make improvements, and to expel lessee for breach of any of the above conditions.

*And provided*, also, that in case the premises, or any part thereof, are destroyed by fire, or other unavoidable casualty, so that the same shall be unfit for use and habitation, then the rent above mentioned, or a just and proportionate part thereof, shall (according to the nature and extent of the injuries sustained) be suspended or abated until the premises shall have been put in proper condition for use and habitation by the said lessor, or these presents shall be determined thereby, and ended at the election of the said lessee or his legal representatives.

IN WITNESS WHEREOF, the said parties have hereunto interchangeably set their hands and seals the day and year above written.

Signed, sealed and delivered {	_____	L. S.
in the presence of {	_____	L. S.
	_____	L. S.

As above stated, a hold-over tenant can be gotten out by making a lease under seal to a third party. The third party would then send the following notice to the tenant unlawfully holding over:

#### NOTICE TO QUIT FROM A NEW LESSEE.

*Columbus, O., Jan. 23, 1889.*

TO JAMES PETERSON:

You will please take notice that John Moreland, the owner of the premises now occupied by you, viz: (*here insert description*) has executed and delivered to me a written lease of said premises for the term of one year from the date hereof. As I desire to take possession of the premises you will please vacate them without delay.

THOMAS BENSON.

#### NOTICE TO QUIT FOR NON-PAYMENT OF RENT.

*Springfield, Mo., April 23, 1889.*

TO ELMER SIMPKINSON:

Your rent being in arrear, you are hereby notified to quit and deliver up in (*here insert time allowed by law*), from this date, the premises now held by you as my tenant, namely: (*here describe premises*). Hereof fail not or I shall take due course of law to eject you from the same.

INKEEP BYLAND.



## NOTICE TO TERMINATE TENANCY AT WILL.

Wheeling, W. Va., August 17, 1889.

TO WILLIAM JAMESON :

It being my intention to terminate your tenancy, you are hereby notified to quit and deliver up, at the expiration of that month of your tenancy which shall begin next after this date, the premises now held by you as my tenant, viz : (*here describe premises.*) Hereof fail not, or I shall take due course of law to eject you from the same.

AVERY TUDOR.

## MORTGAGES.

A mortgage is a conveyance of an estate or property by way of pledge for the security of debt, said conveyance to become void upon the payment of the debt.

There are legal and equitable mortgages.

A legal mortgage is a conveyance of property intended by the parties at the time of making it to be a security for the performance of some prescribed act.

An equitable mortgage is one in which the mortgagor does not actually convey the property, but does some act by which he manifests his determination to bind the same as a security, as depositing with the lender of money the title deeds to an estate; but they must be deposited as a present *bona fide* security. This species of mortgage is seldom used in modern times.

The grantor of a mortgage is called the mortgagor; the one to whom the mortgage is given the mortgagee. Mortgages usually contain a power of sale upon breach of conditions, which is usually the failure to pay; also the equity of redemption clause.

Equity of redemption is the right which the mortgagor has to redeem after it has been forfeited at law by the non-

payment when due of the money secured by the mortgage, by paying the amount of debt, interest and costs. This right of redemption accrues to administrators, executors, heirs, assigns and devisees of the mortgagor, but the debt must be paid in full and not by payments. The time of redemption is generally limited by statute to three years.

Foreclosure of a mortgage is an equity proceeding by which the mortgagor's equity of redemption is taken away forever. If the mortgagor fails to pay, the mortgagee may file a bill calling on the mortgagor in a court of equity to redeem his estate at once or in default thereof to be forever closed or barred from any right of redemption. In a few States the mortgagee obtains a decree for the sale of the land under the direction of an officer of the court and the proceeds are applied to the discharge of incumbrances in the order of their priority. This is done in Indiana, Kentucky, Maryland, South Carolina, Tennessee and Virginia.

Foreclosure may also result from occupation by the mortgagee for twenty years, or a period of time necessary by the statutes to bar a writ of entry; or from entry by the mortgagee and holding possession for a term of years fixed by law; or by sale under a power of attorney for the purpose, inserted in the original conveyance. If foreclosure is by decree of court a time is generally allowed for redemption before the decree is made absolute. As to form, mortgages are exactly like warranty deeds, except that immediately following the warranty clause, the following words are added, called the defeasance clause:

"PROVIDED, NEVERTHELESS, that if said ———, his heirs, executors or administrators shall pay unto the said grantee, his heirs, executors, administrators or assigns, the sum of ——— Dollars in ——— years from date of these presents, with interest on said sum at the rate of ——— per cent. per annum,

payable semi-annually, and until such payment shall pay all taxes and assessments to whomsoever laid or assessed, keep the buildings standing on the land aforesaid *insured* against fire in a sum not less than ——— Dollars for the benefit of said grantee, his executors, administrators or assigns, at such insurance office as they shall approve, and shall not commit or suffer any strip or waste of the granted premises, or any breach of covenant herein contained, then this deed, as also a certain promissory note having even date herewith, signed by said ———, and whereby the said ——— promises to pay said grantee the said sum and interest at the times aforesaid, shall both be absolutely void, otherwise shall remain in full force."

The following is sometimes added, but is not often considered necessary:

*"And provided* further, that until default of payment of the said sum and interest, or other default as herein provided, the mortgagee shall have no right to enter and take possession of the premises."

Reference is made above to a power of sale given in the original conveyance. If it is desired to give the mortgagee this power it is done by the following words, which are added immediately after the defeasance clause:

*"But upon any default* in the performance of the foregoing conditions, the grantee, ——— executors, administrators, or assigns may sell the granted premises or any part thereof, together with all the improvements that may be thereon, at public auction in said ———, first publishing a notice of the time and place of sale once each week for three successive weeks in some one newspaper in said ———, and may convey the same by proper deed to the purchaser absolutely and in fee simple, and such sale shall be a perpetual bar in law or in equity against me and all persons claiming under me. And

out of the money arising from such sale the grantee or his representatives shall be entitled to retain such sums as are secured by this deed, whether the same be then due or not, including all expenses incurred or sustained by reason of any default on the part of the grantor or his representatives to perform all the conditions of the deed, rendering any surplus there may be to the grantor or his heirs or assigns; and it is agreed that the grantee or his executors, administrators, or assigns, or any person in their behalf, may purchase at any such sale made as aforesaid, and that no other purchaser shall be answerable for the application of the purchase money, and that, until default in the performance of the conditions of this deed, ——— or ——— heirs and assigns may hold and enjoy the granted premises and receive all the rents and profits thereof."

There are briefer forms of mortgage than this, but none better for all purposes.

Mortgage deeds are subject to the same requirements in regard to signing, sealing, acknowledging and recording as other deeds.

In addition to the mortgage deed a note is given for the money called a mortgage note which reads as follows:

*Harrisburg, Pa., July 30, 1889.*

"For value received I promise to pay to John S. Barger or order One Thousand Dollars (\$1,000), in two years from the date hereof, with interest at six (6) per cent. per annum. This note is secured by a mortgage of real estate of even date herewith and recorded in the office of the ———, of ——— county, State of ———.

(Signature)—————"."

#### WILLS.

In order that a will may be valid in law, the person who makes it must be of sound mind and rational judgment. He



must know what he is doing and the consequences of his act. He must know who his heirs are, his liability to his children and the probable or approximate amount of his property.

*Eccentricity* or *peculiarity* of disposition will not invalidate a will. *Delusion*, when it affects the disposition of the property, invalidates the whole will, but if the delusion is as to some minor or unimportant part it does not affect the will. If a contest is made against a will these points become matters of testimony to be proved or disproved by the contending parties.

A *ward* or person under guardianship can not make a will.

One of the most frequent grounds for contests over wills is *undue influence*, as this more frequently than anything else destroys the free agency of the testator, making the instrument the will of another and not that of the testator. A wife's coaxing her husband to leave his property to her would not be considered by the courts undue influence; but if the testator is constrained by force directly or indirectly exerted, or is nagged and pursued to death's door, into making a will contrary to his wishes and desires, and this state of facts can be shown, the will would be declared invalid.

*How to make a Will.*—Wills are written or oral. Oral wills are called in law nuncupative. A will may be written with any substance used for writing, ink, pencil, chalk, etc.; and it may be written on any thing, paper, parchment, board, slate, etc.

The form of words used in a will is not important. The intent of the testator must be clearly expressed. All the terms of a will should be so clear that no mistake in their meaning would be possible.

A will may be certain or conditional in its terms of devising property.

*A certain will* makes absolute disposition of the property.

*A conditional will* makes the disposition of the property

depend upon some future event, as the marriage of a child, or a birth or death.

A will must be signed by the testator, although it is not necessary that the name be placed at the bottom of the writing; it may be written any place on the paper as a signature. He must sign in the presence of witnesses who must see him sign. If he can not write he may direct another to sign for him, in the presence and hearing of the witnesses. Or he may make his mark, even if he can write.

*Seals* are now not generally necessary, although a few States still require them.

*The Witnesses* to a will should be good; *i. e.*, people of the best character that can be obtained—people not only of good character as to truth but of good judgment and business sense, so that if a contest should be made they would testify intelligently as to the facts of signing, etc., and also to the extrinsic circumstances and the testator's mental and physical condition at the time. As many witnesses must sign as the law requires (generally two) and as many more as the testator may desire. The witnesses must sign after the testator and after the will is completed. They must sign their own names, or make their mark, in the presence of the testator and of each other.

*Revoking or Canceling a Will.*—A will may be revoked:

1. By burning, tearing or destroying it with intent to revoke. This must be done by the testator or some one in his presence and by his direction.

2. By making a new will which is signed and executed in due form.

3. By writing across the face of the will such expressions as "This will is cancelled," or "No longer valid," or "This will is annulled." This must be done by the testator with the intent to cancel the will.

4. By a codicil (see definitions) which must be executed with the same formality as the original will.

5. By marriage, after making a will. This annuls the will in most States.

If a child can prove that he was probably forgotten by his father in his will, the court will award him his share; but if his father left him anything, a dollar, it would bar his claim, for that would be proof that he was not forgotten; or if it can be proved that the father intended to disinherit his son then his claim for a share would be barred.

*Construction of a Will.*—The wishes of a testator will be carried out by the executor if possible and provided they do not conflict with some positive rule of law, and are not in conflict with public policy. Conditions in restraint of marriage are void, though a condition forbidding marriage with one particular person would be valid, as there would be many other eligible persons whom the devisee might marry. A minor can not act as executor and if appointed the court will appoint an administrator in his stead.

*Burden of Proof.*—The burden of proof as to the competency of the testator is on the executor. If the witnesses are dead and there are no suspicious circumstances oral testimony will be admitted to prove handwriting. If the death of the testator is denied, the executor must prove it. If the man has been absent seven years and not heard from, the law will infer that he is dead, and act accordingly, but if he should return, all proceedings under the will are void. If a will is contested the parties desiring to break it must show to the satisfaction of the court that the will was extorted or made under undue influence.

#### FORM OF A WILL.

The following form is simple and conforms to law:

BE IT REMEMBERED, that I ———, of ———, in the State

of ———, being of sound mind and memory, but being well aware of the uncertainty of this life, do make this my LAST WILL AND TESTAMENT:

After the payment of my just debts and funeral expenses, I bequeath and devise as follows: (*here state just what you wish to be done or omitted and use plain, simple words that have but one construction.*)

IN TESTIMONY WHEREOF, I hereunto set my hand and in the presence of three witnesses declare this to be my last will, this 18th day of September, A. D. 1889.

JOHN C. HILL.

On this 18th day of September, A. D. 1889, John C. Hill, of Cincinnati, Ohio, signed the foregoing instrument in our presence, and declared it to be his last will, and as *witness thereof*, we three do now, at his request, in his presence and in the presence of each other, hereto subscribe our names.

WILLIAMSON D. WATTS.

M. B. BLACK.

JOHN D. BANKS.

#### STATE LAWS ON DEEDS AND WILLS.

The laws of the States vary somewhat in regard to the formalities to be observed in drawing deeds and wills. The following condensation of the State statutes will be found to cover the important differences:

ALABAMA.—Deeds must be witnessed. If not witnessed they must be acknowledged and recorded. They have the force of sealed instruments if they so purport on their face.

Wills must be in writing—two witnesses attesting in the presence of testator.

ARKANSAS.—Deeds must be executed in the presence of, or acknowledged before, two witnesses, who must sign, and



must be acknowledged before some qualified officer, and be recorded.

Wills.—Testator must be twenty-one. Will must be acknowledged and subscribed by testator in presence of two witnesses who must sign *by his request*.

CALIFORNIA.—Deeds must be acknowledged, or proved, and recorded.

Wills must be subscribed by testator, or some person in his presence, and must be acknowledged, etc., same as Arkansas.

COLORADO.—Deeds must be acknowledged and recorded. Witnesses not necessary. Scroll answers for seal.

Wills must be attested in the presence of testator by two witnesses, and signed by him or some one at his request.

CONNECTICUT.—Deeds must be signed, sealed and acknowledged, have two witnesses, and be recorded in the town or city where the land is located.

Wills must be signed by testator and attested by three witnesses. These witnesses must all be present and see the testator sign, and sign in each other's presence at the same time.

DELAWARE.—Deeds; one witness; acknowledged; recorded.

Wills signed by testator; attested by two witnesses.

FLORIDA.—Deeds must be sealed and delivered in presence of two witnesses, and acknowledged and recorded within six months after execution. A scroll answers for a seal.

Wills must be attested and subscribed by three witnesses, in presence of testator, and must be signed by testator, or by some one authorized by him, and in his presence. Nuncupative wills must be proved by three witnesses.

GEORGIA.—Deeds must be signed, sealed and acknowledged; attested by two witnesses; recorded within one year. A scroll serves for a seal.

Wills. Same as Florida, except nuncupative. Persons fourteen years old may make a will.

ILLINOIS.—Deeds must be acknowledged and recorded. No witnesses necessary. Scroll for seal.

Wills must have two witnesses; signed by testator, or some one in his presence. Witnesses must see testator or his representative sign, and they must sign in his presence.

INDIANA.—Deeds must be signed, acknowledged and recorded. No seals or witnesses are necessary.

Wills must be attested and signed by two witnesses, and signed by testator, or some one in his presence at his request.

IOWA.—Deeds same as Indiana.

Wills same as Indiana. Nuncupative wills attested by two witnesses convey property amounting to \$300.

KANSAS.—Deeds must be signed by the grantor, or some one authorized by him, and acknowledged and recorded. No seals.

Wills must be signed by the testator, or some one in his presence, and attested by two witnesses; also acknowledged in the presence of the subscribing witnesses who saw him sign.

KENTUCKY.—Deeds must be signed, acknowledged and recorded. No seals.

Wills must be signed by testator or some one for him, in the presence of two witnesses who must sign at one and the same time.

LOUISIANA.—Deeds must be signed, acknowledged and attested by the proper officer and two others, and recorded. No seals.

Wills.—there are three kinds: 1. Mystic or sealed. 2. Nuncupative. 3. Holographic. The testator must sign a mystic will and acknowledge it before a notary and seven witnesses, who must all sign. Nuncupative wills are of two kinds: by public act and by private act. A will by public act is written by a notary at testator's dictation and acknowledged in the presence of not less than three witnesses. A will by

private act is written either by the testator himself or at his dictation in the presence of five non-resident witnesses. He and they all must sign it and acknowledge it before a notary. Holographic wills are written and signed by the testator himself.

MAINE.—Deeds must be signed, sealed, acknowledged and recorded. Scroll answers for seal.

Wills must be signed by testator or some one in his presence and subscribed by three disinterested witnesses.

MARYLAND.—Deeds must be signed, sealed, acknowledged and recorded and have one witness. Scroll for seal.

Wills must be signed by testator or some one in his presence at his request; must have three witnesses.

MASSACHUSETTS.—Deeds must be signed and sealed by the grantor or some one duly authorized by him and acknowledged and recorded. No witnesses. Scroll for seal.

Wills must be signed by testator or some one in his presence at his request, and attested and subscribed by three witnesses in the presence of the testator and of each other.

MICHIGAN.—Deeds must be signed, sealed, acknowledged and recorded, and have two witnesses.

Wills same as Massachusetts, except only two witnesses are required.

MINNESOTA.—Deeds same as Michigan. Scroll for seal.

Wills same as Michigan.

MISSISSIPPI.—Deeds must be signed, sealed, acknowledged and recorded. One witness. If there be no acknowledgment two witnesses will prove the deed. Scroll for seal.

Wills.—If real estate is devised by other than holographic will, the testament must be attested by three witnesses in the presence of testator; but by only one if personal property is devised.

MISSOURI.—Deeds must be signed, sealed, acknowledged and recorded. No witnesses necessary. Scroll for seal.

Wills must be attested by two witnesses and signed by testator or some one in his presence.

NEBRASKA.—Deeds must be signed by grantor and one witness in presence of each other, and be acknowledged and recorded. No seal necessary.

Wills must be signed by testator, or some one in his presence, at his request, and attested and subscribed in his presence by two witnesses.

NEVADA.—Deeds same as Missouri.

Wills must be signed by testator, or some one in his presence, and sealed; also subscribed and attested by two witnesses.

NEW HAMPSHIRE.—Deeds must be signed, sealed, recorded and attested by two witnesses. Scrolls will not do for seals.

Wills must be signed and sealed by the testator, or some one in his presence, and be attested and subscribed by three witnesses.

NEW JERSEY.—Deeds same as Missouri.

Wills must be signed by the testator, or some one in his presence, and subscribed and attested by two witnesses, who must have the testator's acknowledgement of the will, and sign in his and each other's presence.

NEW YORK.—Deeds must be signed, sealed, acknowledged and recorded. If not acknowledged prior to delivery one witness must attest.

Wills must be signed by testator and two witnesses, in the presence of each other. The witnesses must add the address of their place of business.

NORTH CAROLINA.—Deeds must be signed, sealed, acknowledged by one witness and recorded within two years. Scroll for seal.

Wills must be signed by testator, or some one in his presence, and by two disinterested witnesses. Holographic wills



are permitted if testator's signature is proved by three witnesses.

OHIO.—Deeds must be signed, sealed, acknowledged and recorded. Two witnesses. Scroll for seal.

Wills must be signed by testator, or some one in his presence, and by his direction and in presence of two witnesses and attested by them.

OREGON.—Deeds same as Ohio.

Wills must be signed by testator, or some one in his presence and by two witnesses at the same time.

PENNSYLVANIA.—Deeds same as Ohio, excepting only one witness is necessary.

Wills same as Oregon.

RHODE ISLAND.—Deeds must be signed, sealed, acknowledged, recorded and delivered. Scrolls will not answer for seals.

Wills must be signed by the testator, or some one for him, and by two witnesses in the testator's presence.

SOUTH CAROLINA.—Deeds same as Ohio.

Wills must be signed by the testator and three witnesses in his presence.

TENNESSEE.—Deeds must be signed and recorded, and acknowledged by grantor or two witnesses. No seals.

Wills must be signed by testator, or some one in his presence, and be signed and attested by two witnesses. Holographic wills are allowed if three witnesses prove testator's signature.

TEXAS.—Deeds must be signed, sealed and recorded. Also acknowledged or proved by two witnesses. Scroll for seal.

Wills must be signed by testator, or some one authorized by him, and attested by two witnesses, unless holographic.

VERMONT.—Deeds must be signed and sealed in presence of two witnesses; also acknowledged and recorded in the city

or town where the property is located. Scroll will not answer for seal.

Wills must be signed by testator or some one authorized by him, and by three witnesses in testator's presence.

VIRGINIA.—Deeds must be signed and sealed, and recorded within sixty days. Scroll for seal.

Wills must be signed by testator or some one authorized by him, and have two witnesses who sign in presence of testator and of each other, unless the will be holographic.

WEST VIRGINIA.—Deeds same as Ohio.

Wills must be signed by testator and two witnesses in presence of each other. Holographic wills must be signed by testator or some one for him.

WISCONSIN.—Deeds same as Ohio.

Wills must be signed by testator or some one in his presence and be attested and signed by two witnesses.

## CHAPTER III.

### CONTRACTS.

**A** CONTRACT is an agreement between competent persons, upon a sufficient consideration, to do or not to do a particular thing.

*A simple or parol contract* is a contract not under seal; it may or may not be in writing.

*Specialties* are contracts under seal, as deeds, bonds, etc.

*A verbal contract* is a simple contract *in words*, either spoken or written.

*An oral contract* is a simple contract spoken, or by the mouth.

*An express contract* is one in which the terms of the agreement are openly stated and understood at the time.

*An implied contract* is one some or all of whose terms are presumed by the law, from considerations of reason and justice, to exist. As if I engage a man to do a certain service for me saying nothing about pay, the law will imply that I contracted to pay the value of the work.

The essential qualities of a contract are: 1. Assent to all its terms by the parties thereto. 2. A good and valid consideration, which must be proved except in bills and notes and other written contracts that bear upon their face *prima facie* evidence of consideration, but this is open to contradiction by parol testimony. 3. The thing contracted to be done must be lawful. Fraudulent, immoral and forbidden contracts are void. 4. The contract must not be against public policy or the statutes. 5. As a general rule the contract must be binding on both parties, although to this there is a seeming ex-

ception in the case of an infant, who may sue on his contract though he can not be sued. An infant, however, is not considered a *competent party* to contract, and an agreement with one would scarcely fall within the strict definition of a contract.

*Assent.*—What is meant by assent of the parties is their free, mutual and reciprocal concurrence in and approval of the terms of the contract. Assent may be express or implied, the first being openly declared, the latter presumed by law. It may be oral, written or symbolical. In auction sales assent is almost entirely by signs, a nod from the bidder and a blow from the auctioneer's hammer showing proposition and acceptance—a completed contract. Assent must be to the same thing in the same sense; it must comprehend the whole of the proposition, and be exactly equal to it in extent and provisions and must not qualify them by any new matter.

Ordinarily and unless otherwise stated the acceptance must be made immediately upon hearing the proposition, but sometimes a definite time is given within which to accept. Any proposition may be withdrawn at any time before acceptance. Assent must be free, *i. e.*, not obtained by violence or intimidation. Duress to any other person will not void a contract, as to a son to secure the father's assent; there is one exception to this where a man's wife is held in duress to secure his assent to a contract; here the law makes man and wife one and any obligation he is forced into in order to release his wife is void.

Assent must be obtained without fraud. Fraud vitiates everything. Obtaining assent by correspondence is sometimes attended by some very nice points of law. If I write you that I will sell you a certain horse for \$300, you are entitled to a reasonable time for reply, although I can withdraw the proposition at any time. But the withdrawal takes place



when you receive the notice, not when I mail it, and if you have mailed your acceptance of the offer before my withdrawal is received I will be held to the proposition—it is a contract.

*Consideration.*—By consideration we mean the motive or inducement for making a contract. Our definition of a contract, which is Blackstone's definition, and which was also adopted by the celebrated jurist and author, Chancellor Kent, includes "a sufficient consideration" as a necessary part of the definition of a legal contract. It is argued by many good legal minds, including Mr. Stephen, who has written an exhaustive and standard work on contracts, that consideration is not necessary to the idea of a contract. While not necessary to the *idea* of a contract, it is admitted by all that it is necessary to its *enforcement*, and this is the standpoint of definition, making it include the elements necessary to give the instrument legal validity. Mr. Stephen admits that consideration is necessary to the validity of a parol contract, and Kent says that in specialties, in which no consideration is in fact required, one is always presumed by law, the form of the instrument being held to impart a consideration. Yet we know that a contract without consideration is called a *nudum pactum* (a nude pact) or naked contract, still it is a *pactum*, and this would seem to imply that a consideration is not necessary. But without discussing further the sufficiency of a definition it will be enough to impress the point that all contracts should be supported by some consideration to render them valid and enforceable. The consideration is the very life of a parol contract.

The most important divisions of consideration are *good* and *valuable*.

A *good* consideration is one of blood, natural love and affection, and the like. It is used only in deeds and is good there only between the parties; it will not be sufficient against third parties in interest.

A *valuable* consideration is one which confers some benefit upon the party by whom the promise is made; or some detriment sustained by the party in whose favor the promise is made. A valuable consideration is usually pecuniary or in some way convertible into money. A very slight consideration, provided it is valuable, will support a contract. A valuable consideration is the only kind that is good against subsequent purchasers and attaching creditors.

Among the common valuable considerations to contracts, in addition to money, goods or chattels and labor are the following: the waiver of any legal or equitable right, at the request of another; forbearance for a certain time to institute suit on a valid claim; the prevention of litigation; marriage, though not convertible into money, is now settled to be a valuable consideration. Illegal considerations can not be the foundation for a contract. Violations of decency and morality are in contravention of common law and public policy and contracts for these purposes will not be supported, as to commit or conceal a crime; or a contract for future illicit intercourse.

A contract based upon a natural or physical impossible consideration is void.

A consideration which appears valuable but turns out a nullity will not support a contract, as an agreement to do what one is already obliged to do.

*Lawful object.*—The thing contracted to be done must be lawful or the contract can not be enforced. It would be contrary to public policy, in fact, it would be encouraging wrong doing for the courts to come to the relief of parties attempting to violate the law. All fraudulent, immoral and forbidden contracts are void; contracts against public policy or the statutes are void, even if the statute does not prohibit the act but only attaches a penalty.

*Parties.*—An idiot can not make a valid contract, neither an insane person. An infant, or a person under the age of twenty-one, can not make a contract that will bind him, except it be for necessities in which case he will be held and have to pay. And if he be married and order necessities for his wife and family he will be held. The court considers the station in life and means of the infant in determining what are necessities. A necessity for one might be a luxury for another. The son of a deceased millionaire would not be required to subsist on the same allowance that would be sufficient and necessary for a boy of poor parentage who must economize that he may have anything left at majority. Food, proper clothing, shelter, medical attendance and instruction, are necessities, but strangers should inquire whether his lawful guardian is not able or willing to supply the infant with these necessities before they do so, for if he is, then others should not unless they want to do it for nothing. If you furnish an infant necessary supplies do not take a note for it—the note is worthless if he resists it, while your claim for goods sold, if necessities, will be allowed. The rule of necessities holds good also in case of lunatics and idiots. A contract made by a lunatic in a lucid interval is good. This rule of prohibiting infants from contracting is intended for their benefit. The time when an infant comes of age is on the last day of his twenty-first year. That is if he were born July 4 he would come of age July 3 and would be held just as responsible for all acts done on that day, as signing a note, making a will, etc. as if he were fifty years old. He can not plead the Baby Act for any thing done on that day, he is then a legal man.

An infant, while unable to contract is still held liable for all torts that he may commit, such as slander, trespass, assault, etc. If he falsely represent himself to be of age and by such

representation procure goods the party from whom he procured them can take them away and in some States prosecute him for obtaining goods under false pretenses.

Married women, by the common law, were almost entirely disabled to contract, their personal existence being merged in that of their husbands. Contracts made by them before marriage made be enforced by their husbands after marriage but not by themselves. The result is that the contract of a *feme covert* is generally void unless she act as the agent of her husband, in which case it is her husband's contract and not hers. Nearly all the States have special statutes on the rights, duties, privileges and obligations of married women, many of them very much enlarging their powers in this respect, and for a full knowledge of this subject for any State the statutes of that State will have to be searched. Slaves can not make contracts with their masters or with any one else without the master's consent, but as there is no slavery in the United States at the present day this subject need not be further discussed.

A contract made by a drunken man is voidable unless it be for necessities for himself and family. And if it be not for necessities and the man retain and use the thing bought after becoming sober he will be held to affirm the contract and have to pay.

#### WHAT CONTRACTS MUST BE IN WRITING.

*Statute of Frauds.*—The law requires that certain contracts to be binding on the parties shall be in writing. Over two hundred years ago this necessity was recognized and in the year 1677, in the reign of Charles II., the celebrated "Statute of Frauds" was enacted. The object of the statute is well set forth in its title, "for the prevention of many fraudulent practices which are commonly endeavored to be upheld by perjury and subornation of perjury," by requiring that certain contracts shall be in writing. The statute of frauds was an



elaborate affair. It covered six distinct heads or subjects and was comprised in twenty-seven chapters. As parts of this statute have been re-enacted by nearly every State in the Union and are now law which every one ought to be familiar with we give the principal features. The great change which this law has introduced was in parol contracts. Up to that time the law recognized only two great classes of contracts, those by deed and those by parol, or sealed and unsealed. This statute drew a distinction between *written* parol and *oral* parol, rendering a writing necessary in some cases, though not under seal. The following must be in writing, otherwise the law will not allow an action to enforce them: 1. Any special promise by an executor or administrator to answer damages out of his own estate. 2. Any special promise of any person to answer for the debt, default or miscarriage of another. 3. Any agreement made upon consideration of marriage. 4. Any contract for the sale of lands, tenements and hereditaments, or any interest in or concerning them. 5. Any agreement not to be performed within the space of one year from the making thereof. 6. Any agreement for the sale of any goods, wares and merchandise, for the amount of ten pounds sterling or upwards, unless part of the purchase price is paid or part of the goods delivered.

These are the most important features of the statute and as they are all very important law at the present time perhaps a few words of explanation would be well received.

1. Executors and administrators in settling up estates are liable to suffer damage and loss, and the attempt was frequently made to make them answer for such loss out of their own private estates, and in attempting to do this it was easy to affirm that the executor had said that he would stand good for any damage the estate might sustain under his management. The law says that he can not be held on that kind of a

promise; if the heirs expect to hold him personally liable his promise must be put in writing.

2. This provision relating to standing good for another man's debts is very important and little understood. It means simply that if a shop keeper proposes to hold me liable on a promise to pay your debt if you do not he must get that promise in writing. To illustrate: Jones and Brown go into Smith's store; Jones wants a coat and Brown says, "He's all right; if he don't pay you I will." Smith sells Jones the coat and charges him with it. Jones fails to pay and Smith attempts to collect from Brown. He can not; that promise to be good in law *must be in writing*. If Brown had said to Smith, "Give Jones a coat and charge it to me," or "Give Jones a coat and I will settle the bill," then he would be liable on his naked promise for it is a contract between Brown and Smith and Brown *is charged on Smith's books*. Merchants should be very careful in this regard and have a distinct understanding who is to be charged on the books, and if one proposes simply to stand good for another or pay if he don't, insist on having a written memorandum of the agreement.

3. Any agreement upon consideration of marriage. This does not mean an agreement to marry at some future time, nor the contract of marriage itself, but an agreement to do something else provided a marriage take place. A promise to give to a woman, or settle upon her, a specific sum upon her marriage is valid if in writing. But the promise must be to the other party—to the man. A letter will suffice for the writing, but a letter written to the daughter by her father making the promise, which she did not show to the intended husband or make known to him until after marriage, is not a promise within the meaning of the statute. It must be a promise to one party in consideration that he or she will marry a certain other party. This clause of the Statute of Frauds has only

been adopted by a few of the States and so has no general application in this country.

4. Any contract for the sale of lands, etc. This does not refer to the deed of conveyance or the actual sale, but to the preliminary contract to sell. The words are obviously intended to have a wide operation, as the clause, "or any interest in or concerning them," is very far reaching in its application. The courts have construed the meaning, however, in most uncertain cases. The question might arise whether a contract for the sale of growing crops would be a contract or sale of "any interest concerning lands." This seems to depend upon the intention of the parties. If the grain be reaped and in barns or stacks it is evidently severed and a mere chattel. If it be growing and the sale contemplates a severance when grown and a delivery of it then, it is in the estimation of the parties a mere chattel. As a general rule it may be stated that if the parties consider the land merely as a place of deposit or storing for the vegetable productions they are so far disconnected from it that they may be sold as chattels, and are not within the statute. If a contract provide for the sale of land and the growing crops, they go as part of the land and come within the statute. An agreement to release dower must be in writing. An agreement to sell growing trees with the privilege to enter and take them away is a contract for sale of an interest in lands and must be in writing. This section is in general force in the States of the Union.

5. The rule of law for determining whether a contract is to be performed within the space of one year from the making is this: If, when made, it was in reality capable of a full and *bona fide* performance within the year, without the intervention of extraordinary circumstances, then it is to be considered as not within the statute. The understanding or intention of the parties does not control the decision. They may contem-

plate a much longer continuance of the contract, or a suspension of it and a revival at a future time, but the above rule governs the construction. This clause relates more frequently to contracts for labor and services than anything else and is in force in perhaps all the States of the Union.

6. Contract for the sale of goods must be in writing signed by the parties or their agents. The payment of earnest money or the acceptance and receipt of a part of the goods takes it out of the statute and renders a written memorandum unnecessary. The question arises what constitutes acceptance and receipt of a part of the goods, for this statute requires both delivery and acceptance, and therein differs from the old common law principle which only required delivery of the article in kind and quality ordered. If A order orally B to send him one thousand bushels of wheat, naming the quality and price to be paid; B sends the wheat as ordered. At common law the sale is complete and all A can do is to object to the quality or kind. But under this statute he can immediately return the wheat to B and refuse to pay for it even if it was exactly the kind and quality he ordered, as not only delivery but acceptance is required to complete the sale. If A accept the wheat then he must pay and can not after that resist because the order was not in writing. To avoid cases of this kind merchants should insist on having orders for goods in writing. This clause has been adopted in nearly all the States and where it has not the common law rule holds good. The minimum limit, "ten pounds sterling," as written in the original statute, is usually made fifty dollars in this country although some States make the amount less. The subject of "Delivery," which has an important bearing on this question, will be found discussed further on under that head.

#### IMPLIED PROMISES OR CONTRACTS.

Implied contracts are such as reason and justice dictate,



and which the law presumes every man undertakes to perform. If A employ a person to do work for him without naming a price the law implies that he contracted to pay the real value of the services. Parsons says that "these contracts form the web and woof of actual life." Closely allied to these are certain engagements or promises which the law will always imply and which are seldom expressed.

If a man undertake a trust or office the law presumes a promise on his part to perform his undertaking with integrity, diligence and skill, and the want of any of these lays him liable to his employer for damages.

When an agent contracts in the name of his principal he implies that he has the authority of the principal.

The law requires a man to pay taxes and presumes his promise to do so, and if he fails a suit is brought to collect the same. Towns and cities are obliged to take care of their indigent poor.

Metcalf says truly that the only ground upon which an action can be maintained on an implied contract is that of justice, duty and moral obligation. A man is bound to support his wife and children and if he drive them from home and then publish a notice that he will not be responsible for debts contracted by them, it will not avail, he will be compelled to pay bills they may contract for the necessities of life. But if they left his house against his wishes, it would be different.

If I know a man is rendering me service and I permit him to continue I am bound to pay him the fair value for his work, but if I know nothing of it and don't see him he can not collect wages even though his services benefit me. If a plasterer is plastering your house and before he is done it burn down you will have to pay him for work done.

*Construction.*—"The intention of the parties is the pole-

star of construction," says Bouvier. But the intention must be found expressed in the contract, and be consistent with the rules of law. If the contract is so defective that the meaning of the parties can not be determined, the court will not make a new contract for them, nor will it force words out of their real signification. The situation of the parties and the subject-matter will be fully considered in arriving at the sense of the language used.

If the contract relates to a trade or profession the words peculiar to that trade will be given their technical meaning. Words that are manifestly inconsistent with the declared purpose or intent of the contract will be rejected, and words omitted so as to defeat the effect of the contract, will be supplied by inference from the context. If words have two meanings, that will be given them which gives effect to the design of the parties. The whole contract is to be considered with relation to the meaning of any of its parts. All parts will be construed, if possible, so as to have effect.

*Lex Loci*.—The law of the place where a contract is made, a right is acquired, or an act done relating to personal property governs it. This rule applies to determining the validity, or invalidity, of the contract, also the rights of parties under it in all matters pertaining to the modes of execution and authentication of the form or instrument of contract; also to the interpretation of the contract, the meaning of words and use of language employed in it, the legal duties and obligations imposed by it and rights acquired under it. If the parties, however, at the time of making the contract had the laws of another Kingdom or State in view, this general rule of *lex loci* stated does not apply, neither if the *lex loci* is itself unjust or *contra bonos mores* (against good morals).

The capacity, or incapacity, of the parties to the contract as effected by the questions of minority, coverture, guardian-

ship, slavery and other personal disabilities, is to be decided by the law of the place of making the contract.

A discharge from the performance of a contract under the *lex loci* is a discharge everywhere.

A contract of marriage, if valid where contracted is valid everywhere, unless it is repugnant to the settled policy and laws of the country where sought to be enforced; the recognized exceptions in the United States being incestuous and polygamous marriages, and the like.

The law that governs the conveyances of real estate is the *lex rei sitae* (law of the place of location of the thing). It is a universal rule of law that any title or interest in land, or any form of realty, can only be acquired or lost conformably to the law of the place where the realty is situated. This rule holds good as to the capacity of the parties to transfer as affected by questions of minority or coverture; or by relations of parent and child, guardian and ward; also executors and administrators. A man residing in Ohio, and making a deed to land located in Indiana, must conform in every respect to the law of Indiana respecting conveyances, recording, signing, sealing, release of dower, etc.

*Sale.*—See definition of Sale.

Sale is a species of contract. The delivery must be immediate and complete otherwise it will only be a contract for sale. The payment must be in money. If in goods or any thing but money it is barter or exchange and not sale.

A sale to be valid must have these conditions: 1. The thing sold must be in existence; 2. The parties must be competent; 3. The seller must be the owner or his authorized agent; 4. There must be a consideration or price paid; 5. There must be an immediate delivery.

If a man sell a horse, and on going to the stable to get the horse to deliver find him dead, the sale is void. But a man

may sell things that are partly in existence only, as a growing crop, or the milk a cow may produce for a certain time, or a colt which a mare may be carrying. A man can not sell what he does not own unless he be an agent for the owner. If you find a watch and sell it, the owner can take it wherever he finds it. See the Law of Finding.

But in the case of negotiable paper this rule does not hold good. If a man find or steal a negotiable note not yet due and sell it he passes title to an *innocent* purchaser for value. If I sell J. B. Smith goods thinking I am selling to J. D. Smith, who is entirely responsible, I do not pass title to the goods and J. B. Smith could not pass any title to any one to whom he might sell them that would defeat my right to take them away. If I represent myself as solvent, when I am not, and buy goods on the representation the seller may take them away, but not from an innocent purchaser after I have sold them. It is now the custom with wholesale merchants to have retailers who ask for credit make a representation in writing of their actual financial condition, and a merchant who misrepresented in this respect and got a large quantity of goods for which he could not pay was found guilty in Cincinnati of obtaining goods under false pretenses.

As to the competency of the parties the same rules hold good that have been previously set forth.

There must be a price paid and the price must be certain or be capable of being made so. An example would be this: I buy of A one thousands bushels of wheat at the price at which it opened at the Chicago Grain Exchange that morning. Neither of us knows what it is but it can be ascertained; or I buy a horse of B for whatever any three dealers say he is worth; the price is not certain but may be made so. If they fail or refuse to fix a value the sale is void. While the price must be certain the goods must also be specific and capable of



positive identification. If I buy one thousand bushels of wheat that exact quantity must be separated from the bulk before the sale is complete. There must also be an exact understanding as to price, quantity, quality and all the material terms of the sale, for an honest misunderstanding relative to any material fact will vitiate a sale. As to what constitutes a delivery and other important information connected with that subject, see the discussion under that head which follows.

*Delivery.*—It is a maxim of the law that an actual or constructive delivery must follow a bargain to complete a sale. Originally delivery was a clear and unequivocal act of giving possession by placing the subject of the sale in the hands of the transferee or his agent or in their warehouses, vessels, carts, etc., but in these times delivery is frequently symbolical, as delivering the key to a room where goods are stored, for a delivery of the goods. At common law delivery was not necessary to complete a sale as between the parties to the sale, but as against third parties it was necessary, as the possession of an article by the seller after a supposed sale raised a presumption of fraud. If I sell you a horse and you permit me to retain possession of him, and I then sell him to another who knows nothing of the first sale and he takes possession of the horse you have no enforceable claim against him for the horse; only an action against me for the money paid for the horse.

The rule of delivery is modified in the case of bulky articles, in which a delivery of a part for the whole will be construed as delivery.

If the buyer is to take goods away, then the separating of the goods from the rest and counting, weighing or measuring, will constitute delivery.

Instructions are frequently given by a buyer to a seller as to the manner, time and place of delivery. These should be

followed exactly, and if any loss occur it falls on the buyer, whereas, if instructions are not followed and a loss occur it falls on the seller. As to the place of delivery if no instructions are given the nature of the article and its use should be taken into consideration. If it is to be used in a shop or barn it should be delivered there; it is not delivered if left at his house.

If a man buys goods and then refuses to take them when delivered or tendered he is liable; the seller may sell them again and if he does not realize as much as the first was to pay he will be held liable for the difference.

*Stoppage in Transitu.*—Under some circumstances a merchant who has sold and shipped a bill has the right of *Stoppage in Transitu*. This means the right to stop goods while *in transit*. It is a right that vests in the seller when the goods have been sold upon credit.

The right may be exercised by the vendor, or a consignor, to whom the vendor is liable for the price, or a general or special agent acting for him. If it is ascertained that the buyer has become insolvent after buying the goods, and before their delivery, the seller may exercise the right of *stoppage in transitu*. It must be exercised before the goods have been delivered to the purchaser, and before he has transferred any title in the goods to any other. Notice should be given to the warehouseman, or carrier, or whoever has custody of the goods, that the right is to be exercised, and that he shall not deliver the goods. If the goods have been delivered to the buyer, or to an agent of the buyer, or have been deposited in a public warehouse for him, or a part have been delivered for the whole, or they in any way, either actually or constructively, come into the possession of the buyer, then the right of *stoppage in transitu* is defeated. If they have been put in a warehouse and held for the payment of freight, they are not in the

buyer's possession. But if the sale is made, and then for the accommodation of the purchaser, the goods are let lie in the store of the seller for a time, they have been delivered and are constructively in the possession of the buyer.

*Warranty.*—When a sale is made the seller warrants the title and his right to sell, either expressly or by implication. If the thing sold is in the seller's possession the warranty is implied; if the thing is not in the seller's possession the common law rule was "*caveat emptor*" (let the buyer beware). A man ought to use all his senses in making a purchase and demand warranties for what he is in doubt about. Misrepresentation of any material fact vitiates the sale, for it is a species of fraud. A warranty made after a sale is completed is worthless as it has no consideration to support it. If the seller expressly refuse to warrant the goods then no warranty can be implied.

If goods are not as ordered the buyer may refuse to receive them and return to seller and bring suit for breach of condition; but if he keeps the goods and sells any of them before he discovers the defects the value of the goods sold will be deducted from any judgment he may obtain. He may return the goods, or any part of them, as soon as he discovers the fact that they are not in accordance with the contract. If, when returned, the seller refuse to take them, then the buyer may sell them and recover from the vendor the loss on the resale of the same, as well as storage and charges for selling.

#### FORM OF BILL OF SALE.

*Cincinnati, August 5, 1889.*

MR. THOMAS SMITH.

Bought of STEINAU & FURST, JEWELERS,

One H. C. Gold Watch, - - - \$250.00

*Paid, August 5, 1889, STEINAU & FURST.*

For ordinary every day business the above form is as good as any.

If it is desired to have a more pretentious instrument the following will be found a good form :

KNOW ALL MEN BY THESE PRESENTS, That I, James Pedro, in consideration of Ninety Dollars, paid me by Isaac Don, the receipt whereof is hereby acknowledged, do hereby grant, sell, transfer and deliver unto the said Isaac Don, the following goods and chattels, viz: (*here describe the goods.*) To have and to hold all and singular the said goods and chattels to the said Isaac Don and his executors, administrators and assigns, to their own use and behoof forever, and I hereby covenant with the grantee that I am the lawful owner of the said goods and chattels, and that they are free from all encumbrances whatsoever, and that I have good right to sell the same as aforesaid, and that I will warrant and defend the same against the lawful claims and demands of all persons.

IN WITNESS WHEREOF The said James Pedro has set his hand and seal this 5th day of August, 1889.

\_\_\_\_\_ L. S.

Signed, sealed and delivered } \_\_\_\_\_  
in the presence of } \_\_\_\_\_

If you want to make a Chattel Mortgage with Power of Sale, insert in the above form, between the paragraph ending with phrase, "demand of all persons" and the one beginning "In witness whereof," the following form:

PROVIDED, NEVERTHELESS, That the said Mortgagor, or his executors or administrators shall well and truly pay unto the said Isaac Don, or his executors, administrator or assigns, the sum of Ninety Dollars; then this deed as also a certain promissory note, bearing even date herewith, signed by the said James Pedro, whereby he promises to pay the said Isaac



Don the said sum of Ninety Dollars and interest at the time aforesaid, shall both be void, and otherwise they shall remain in full force and effect.

AND PROVIDED, ALSO, That until default by the said James Pedro, or his executors or administrators, in the performance of the condition aforesaid, or of some part thereof, it shall and may be lawful for him or them to keep possession of the said granted property, and to use and enjoy the same; but in case of such default, or if the same or any part thereof, shall be attached at any time before payment, as aforesaid, by any other creditor or creditors of the said Mortgagor, or if the said James Pedro, his executors or administrators, shall attempt to sell the same, or any part thereof, without notice to the said Isaac Don, or his executors, administrators or assigns, and without his or their assent to such sale, in writing expressed, or shall remove the same, or any part thereof, from the place where they now are, without such notice and assent then it shall be lawful for the said Isaac Don, his executors, administrators or assigns, to take immediate possession of the whole of the said granted property, to his or their own use, and to sell and dispose of the whole, or so much of said property, at public auction, as shall produce a sum of money sufficient to pay and discharge the above mentioned debt or liability, with interest and all costs and charges of keeping and selling the same, and all just and equitable liens then existing thereon, without further notice or demand, except giving — days' notice of the time and place of said sale to said James Pedro, or his legal representatives; and after the said debt or liability, with interest, costs, charges and liens, shall be so discharged and satisfied, the surplus of the money arising from said sale, and the residue of said granted property shall be paid and restored to said James Pedro, or his legal representatives, discharged from all claim under this mortgage.

The note referred to above may take the following form :

\$90.00.

August 5, 1889.

For value received I promise to pay to Isaac Don, the sum of Ninety Dollars (\$90) in six months from this date, with interest to be paid monthly at the rate of eight (8) per cent. per annum, during said term, and for such further time as the said principal sum, or any part thereof, shall remain unpaid.

JAMES PEDRO.

Signed in the presence of :

ELMER J. DICKSON.

Secured by a mortgage on personal property in Dayton, O., to be recorded in (*here state the proper place of record*).

It has become a common custom, especially in all large towns and cities to sell goods on weekly and monthly payments. In these cases the goods are really not sold to the parties but leased upon conditions of payment of a fixed sum at regular intervals, the articles becoming the property of the purchaser or lessee when all is paid.

#### LEASE FOR ARTICLES SOLD ON INSTALLMENTS.

*Denver, Col., Aug. 5, 1889.*

KNOW ALL MEN BY THESE PRESENTS, That I, Thomas Bixby, have this day received of S. B. Glass & Co., under an agreement for a conditional sale, one Eclipse Clothes Wringer; for the use of said Clothes Wringer, and as rent for the same, I have this day paid to the said G. B. Glass & Co., fifty cents and promise further to pay to them or their legal representatives twenty-five cents per week (the first payment to be made on the 12th day of August, 1889) until such time as the sums so paid and to be paid by me shall amount to the sum of Eight Dollars, at which time said rent shall cease, and the said wringer become my absolute property, but in case of fail-

ure to pay said rent, as aforesaid, the said S. B. Glass & Co. may, without being deemed guilty of trespass or tort, and without thereby rendering themselves liable to refund any sums received by them from me as rent, as aforesaid, enter any house or place where the said wringer may be and take possession of and remove said wringer therefrom, and I further agree that so long as said rent shall be payable, as aforesaid, I will not injure, sell, mortgage or relet the said wringer or remove it from my premises, and that in case of failure to pay said rent I will on demand return the said wringer to the said S. B. Glass & Co. or their legal representatives.

Witness my hand and seal this 5th day of August, 1889.

Sig. \_\_\_\_\_

Signed and sealed } \_\_\_\_\_  
 in presence of } \_\_\_\_\_

These leases do not generally require a seal or witnesses although we believe in a few States they do.

#### NOTES AND BILLS.

A promissory note is a written promise to pay a certain sum of money at a future fixed time, unconditionally. It must be in writing. It must be for money only, and the amount must be fixed and certain. The promise to pay must be absolute. An acknowledgement of debt as "I. O. U." etc., is not a promissory note. It must be payable at a certain time or upon an event that must surely occur. The most important feature, commercially, of a promissory note, is the fact that it is payable at all events, and not dependent on any contingency whatever. The amount is generally written in both figures and words and if there is a difference between the two the words control.

*A Negotiable Note* is one made payable to bearer or order. In some States, as Kentucky, it must also be made payable at some bank. If made payable to order it must be endorsed on the back with the name of the person to whom it is made payable if he should sell or transfer it to another before maturity. The endorser thus becomes responsible for the payment of the note. He may avoid liability of payment by writing after his name the words, "without recourse."

Following is a form of a promissory note due in ninety days at six per cent. interest:

*Cincinnati, O., June 18, 1889.*

Ninety days after date, for value received, I promise to pay to William T. Johnson, or order, Nine Hundred and Fifty-three Dollars (\$953.00). Interest six (6) per cent.

Payable at Merchant's

National Bank.

JAMES R. BUCKNER.

*A Joint Note* is one in which two or more people join and promise to pay, all signing. It usually reads "we promise" although if "I promise" is used and two or more sign, all are held and they can be sued jointly or separately.

The proper form for a joint and several note is "We or either of us promise to pay," but the law construes joint notes reading "We promise" in the same way holding each one liable for the whole amount.

*Days of Grace* is time allowed for the payment of a note after it is really due. This time is three days. Banks charge interest for them. If a note has been sold and endorsed the endorser must be notified at the expiration of the three days, otherwise he is released from liability to pay. This notification of an endorser of the failure of the principal to pay the note is called *Protest*. It must be done in proper form and at the proper time and must be done by a Notary Public. Usu-



ally sight bills are not allowed grace, but it is allowed in the States of Maine, New Hampshire, Massachusetts, North Carolina, South Carolina, Alabama, Indiana, Kentucky, Wisconsin, Iowa, Michigan and Dominion of Canada.

*Demand Notes* are payable on presentation. They read "On demand," etc. "I promise to pay," etc. They are not entitled to *Grace*. Interest begins when demand is made and runs at legal rate till the note is paid unless stipulated differently in the note. The endorser is only held for a limited time varying in different States.

*Notes falling due on Sunday*, or on a legal holiday, are payable on the day previous.

*Notes dated on Sunday* are good in most States, although in a few they are void.

*Altering a Note* in any material way by the holder makes it void.

*Notes given by Minors* are voidable. This means that the minor can successfully resist the payment upon the grounds of his minority when signing. If he does not urge this as a cause for not paying the note, the court will not take notice of the fact of the maker's minority and the note will have to stand upon its merits as if given by an adult.

*Losing a Note* by theft, or otherwise, does not release the maker from payment if the holder can prove the amount and consideration.

*Notes obtained by fraud* or given by an intoxicated person can not be collected.

An endorser has a right of action against all the persons whose names appear as endorsers on the note previous to his.

*Accommodation paper* is a note given without any consideration, for accommodation. Smith needs money. He goes to Brown and says, "Give me your note for \$500 for thirty days." Brown owes Smith nothing but gives him his note for the

amount and he takes it to a bank where Brown's credit is good and discounts it and raises the needed money. At the end of thirty days Smith must take up the note and return it to Brown. These notes are not valid between the parties but would be in the hands of an innocent third party without notice. Mutual notes exchanged are good; they are not considered accommodation notes but *business*.

The words, "value received," should always be written in a note, otherwise it might be necessary to prove the consideration for which the note was given.

*Bill of Exchange.*—See Definitions. A note after endorsement becomes for all practical purposes a bill of exchange. The payee by his endorsement orders the maker to pay the amount of the note to a third party who may or may not be named. The person making a bill of exchange is called the drawer. The person to whom it is directed and who is ordered to pay is called the drawee. The person to whom the money is payable is called the payee. When the bill is presented to the drawee he will signify his intention of paying or not as the case may be. If he intends to pay he will write across the face of the bill the word "Accepted" and sign his name beneath. He then becomes the acceptor.

A bill must be written. It must be properly dated both as to time and place of making. The time of payment should be expressed. If no time is stated it is understood to be payable on demand. This demand by one person of another to pay money must be made by right and not as asking a favor. It must be absolute and not contingent.

*A Foreign Bill* is one of which the drawer and drawee reside in different countries.

*An Inland Bill* is one of which the drawer and drawee reside in the same country.

A bill should always be presented to the drawee or some

one authorized to represent him. If he refuse and the bill is addressed to any other party present it at once to the other party. In order to hold the drawers or indorsers you must present it to each one to whom it is addressed. Presentation must be made in business hours and on business days, not on Sundays or holidays. As to place of presentation, it may be made any place, at his home, place of business, or wherever the drawee may be found.

Indorsers are entitled to immediate notice, as unreasonable delay will relieve them. As soon as the indorser receives notice he should notify the drawer, or other indorser, to whom he expects to look for payment.

Notices are usually sent by mail. Indorsers and acceptors guarantee the solvency of the party and the validity of the note or bill.

An indorser's contract is conditional. He contracts to pay if the maker does not, after demand and notice have been given. However, it is not a collateral agreement; he simply contracts to pay his own debt.

A bill or note should be presented on the day it is legally due, at the place appointed, or at the house or place of business of the maker or acceptor; in case of death, to his personal representative; in case of insolvency, to his legal representative. If the maker leave the country, presentation at his last place of abode will hold indorsers; if after diligent search the maker of a note or acceptor of a bill can not be found the legal rights of the payee are as secure as though presentation had been made.

*A Surety* on a note is a person who becomes bound for its payment for the maker who is already bound. A surety's engagement must be in writing. It is not collateral, but binds him as an original debtor. He must pay in any event and may be sued before the maker if their contract is not a joint

one, and if it is at the same time with him. A surety is entitled to all collaterals given to creditor to secure the debt, and if the creditor give the collaterals up to the debtor to the prejudice of the surety it will discharge the surety or indorser from liability. Neither has the holder of a note the right to extend the time of payment to the debtor or do anything detrimental to the surety's interests, otherwise surety will be released. If the principal debtor is a minor that fact will not release the surety.

An indorser can not be released before maturity, because his liability must be fixed by demand, notice and presentation.

When banks have paper and send out notice before maturity, it is a demand and notice.

First is presentment and demand of payment; then if refused, comes protest; then follows notice to all parties interested.

#### BONDS.

A bond is a species of contract by which one person becomes bound to another in a certain sum, the payment of the whole or a part of which depends upon certain conditions set forth in the bond. The maker of the bond is called the obligor, and the one to whom he binds himself the obligee. The amount of his obligation is called the penalty or penal sum, because the payment is the penalty of standing for the good conduct of some person employed in a public or private capacity, who has defaulted or failed to perform his duty. The condition of the bond usually is the faithful and honest performance of certain duties, and it is very important that this clause be set out clearly and state fully the reason for the existence or creation of the bond. Nearly all public officers and many private employes, especially those who handle their employers' money, are required to give bond for the faithful and honest discharge of their duties.



*Form of Bond.*—The following form will be found sufficient for all practical purposes:

KNOW ALL MEN BY THESE PRESENTS, That I, James Mills, of Quincy, in the State of Illinois, am held and stand firmly bound unto John D. Banks, of Chicago, in the State of Illinois, in the sum of One Thousand Dollars (\$1,000), to be paid to the said John D. Banks, or his executors, administrators, or assigns, to which payment I bind myself, my heirs, administrators, or executors, firmly by these presents.

The condition of this obligation is such that if William Timson, of Quincy, Illinois, faithfully and honestly perform all the duties incumbent upon him as collector for the said John D. Banks, then this obligation shall be void; otherwise it shall remain and be in full force and virtue.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 18th day of September, A. D. 1889.

JAMES MILLS, L. S.

Signed and sealed in the  
presence of

}  
} ALFRED BOGGS.

#### AGENTS.

Persons who do business for others are agents. Those who employ them are called principals. The agent's authority must be equal to his duties. If they are authorized to bind their principals in written agreements their authority to do so should also be in writing. If they are to convey real estate, requiring a sealed instrument, their authority should also be under seal. An exception to this rule is in the case of a corporation, which may, by a vote of the board of directors, authorize their agent to contract by deed.

Two principles underlie agency. The first is the basis of the law of agency, and the second is the basis of the responsibility of the principal for the acts of the agent.

1. The first principle is that the agent is but the instrument of the principal, who acts by or through him. This makes the principal responsible for his own acts, and their legitimate results, equally whether he does them directly himself, or mediately, through some outside instrumentality; and it matters not whether he uses an unconscious and material instrument, or a living and intelligent instrument; whether he signs his name with a pen, or by a man whom he requests to sign for him. The act done is the act of the principal in either case. He assumes the relations, acquires the rights, and incurs the obligations which properly result from these acts equally in either case.

2. The second principle fixes the relation of third parties to the principal. It is this: As between a principal and a third party who has supposed himself to be dealing with a principal by means of one representing himself as an agent, the principal is responsible for and is bound by the acts of his agent on one of two grounds: The first is that he has actually created this agency; the second is that he has in some way, by word or act, fully led the third party to believe that the person is his agent. If he has acted or spoken in such manner as to justify the belief in the third party that this person had from him sufficient authority to do that particular thing, as his agent, he can not answer that the third party made a mistake, or that the agent had no authority, or that his authority did not extend that far. When courts decide this question all the attendant circumstances of the transaction, and the usages in regard to such transactions, are taken into consideration.

A general agent is one authorized to transact all of his principal's business, or all of his business of a certain kind. A particular or special agent is one authorized to do one or two particular or special things.

If a special agent exceed his authority the principal is not

bound. If a general agent exceed his authority his principal is bound, provided the agent acted within the ordinary scope of the business he was authorized to transact, and the party dealing with him did not know he was exceeding his authority. A man may be a general agent for a special purpose, as a milling company may employ an agent to purchase all their grain. As long as he purchases grain his principals will be held responsible. If he should buy iron ore or wool, it would be considered so far out of the usual scope of the milling business that his principal would not be held.

It is a fundamental principle that a man can only be bound by those acts of another which he has authorized. A railroad corporation appointed an agent to issue certificates of stock, upon a transfer on the company's books by a previous owner and a surrender of that owner's certificate; the agent fraudulently issued certificates for his own benefit, not complying with either of the above conditions. His acts were held to be beyond the scope of his authority, and his principals not bound.\* An agent was authorized to purchase goods to a certain amount. He purchased beyond that amount, assuring the seller that he had not exceeded the amount authorized, and the seller sold on this assurance. The majority of the court (*Wilde, J., dissenting*) held that he exceeded his authority and the principal was not held.† There is serious doubt about this last decision, and it is evident that this principle must not be extended too far. We introduce it here to show how closely the line is drawn on some of these cases arising under the law of agency.

An agent may have authority to sign his principal's name to notes for the purpose of raising money to be used in the

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\**Mechanics' Bank vs. N. Y. & N. H. R. R. Co.* 3 Kern. 599.

†*Mussy vs. Beecher.* 3 Cush. 511.

principal's business, and then having procured the money he may convert it to his own use; and the agent may have intended to do this at the time, but the principal would be held responsible for all the notes, because the whole transaction is strictly and literally authorized. The misappropriation of the money is a breach of trust, and would not affect an innocent third party.

*Signature by Agent.*—The best way for an agent to sign a writing for his principal is A by B, A being principal and B agent. If he sign B for A, B is held to be the principal and A the agent, although the intention would seem to be to make B the agent. It is essential in deeds that the name of the principal appear distinctly as such, so that there be no confusion about who is principal and who agent.

*Extent of Authority.*—An agent is considered to have authority to do those subordinate acts which are necessary to the principal act which he is authorized to do, or which are usually and properly done in connection with it, or which are essential to carry it into effect. An agent to collect debts may exercise his discretion in giving the debtor reasonable indulgence in time of paying. An authority to sell does not carry with it authority to give credit unless that is the usage of the trade. If an agent sells for credit, without authority to do so, he becomes personally responsible to the principal for the whole debt. If an agent's authority is given in a written instrument, and the person dealing with him know of such instrument, it must be followed strictly; usage will not suffice to justify a variance from its directions. A power to sell does not carry with it a power to warrant, unless the sale is one usually attended with warranty. If the usage is in any particular case to warrant, and the principal expressly instruct his agent not to warrant, and the agent disobey the instructions and warrant the article, and the buyer is justified



in believing that the agent had authority to do so, the principal will be held to the warranty notwithstanding his instructions to the agent.

*Usage* is very important in all these questions. The rule may be laid down, however, that usage will not enlarge or extend an authority given in writing and known to the party dealing with the agent; but in case of oral authority usage frequently enlarges and modifies the scope of the agent's authority.

If an agent selling goods makes a material misrepresentation which he believes to be true, but which his principal knows to be false, it is the falsehood of the principal and avoids the sale.

*Right of Action under Contract made by Agents.*—In case of a simple contract an undisclosed principal may show that the apparent party to the contract was really his agent and put himself in the place of the agent, but not so as to impair the rights of the other party. In contracts, by deed, no party can have any right of action under them but the party whose name is in them.

A purchaser for an unknown principal whom he does not disclose is himself liable for the price.

An unknown principal can not come in and adopt his agent's contract in part and reject it in part; he must adopt it as a whole or not at all.

If the principal's name is disclosed at the time of making the contract he is the one to sue upon the contract. This is true even if he be a resident of another State than that in which the agent resided and made the contract.

*Agent's Liability.*—As a general rule an agent is not personally liable. He becomes liable in the following instances: 1. When he transcends his authority or departs from its provisions. 2. When he expressly pledges his own liability, and

in this case he is liable even if he describe himself as agent.  
3. When he conceals his character as agent. 4. When he so conducts himself or his agency as to render his principal inaccessible or irresponsible. 5. When he acts in bad faith.

If an agent's acts are open to two constructions, one of which would bind himself and the other the principal, the law prefers that construction which binds the principal.

If a party deals with an agent and knows him to be such, and knowing that the principal is bound, yet takes the agent's individual note, the principal is discharged.

If a person sign as agent of a company which has no existence he is personally liable.

If an agent acts without authority he is personally liable.

The case where an agent acts without authority but honestly believes that he has authority may be involved in some doubt. The test of his personal liability will probably be found in his means of knowing the facts in the case. If he could have known, but did not through his negligence or fault of his own, then he will be held personally liable. Of this there can be no reasonable doubt. How about the case where he could not possibly know but what his authority was good, as in the case of a forged letter of instructions which he could not detect? He deals with a third party who is also entirely innocent and a loss occurs. Who is to bear it? This is a hard case. We believe, however, that it will still fall upon the person who supposes he is acting as agent, although there are decisions holding otherwise. The loss must fall between him and the innocent third party, as it is well settled that the supposed principal, whose name was forged to the letter giving the authority, can not be held. It seems only just that the loss should fall upon him who innocently yet falsely assumed this authority.

The question still remains whether the supposed agent can

be held *on the contract* which he may make with a party under the impression that he has the authority to do so. And it has been decided that he can be held, but we think that this is carrying the principle too far and incline to the view of Parsons, that the better and more equitable opinion would be that the contract is wholly void.

*Revocation of Authority.*—Authority may be revoked at any time, unless the agent have an interest in the business or the authority is given for a valuable consideration. In case of a special agent notice of revocation is not necessary, but when the authority of a general agent is revoked, the principal will be bound by the further acts of the agent done with third parties accustomed to dealing with him in that capacity, unless he make the revocation as notorious as was the fact of the agency. This is usually done by advertising. Third parties who never dealt with such agent before the revocation, but who had reason to believe as a part of the general community that such agency existed, and had no means of knowing of the revocation, may hold the principal liable for the acts of the agent after revocation.

Revocation may be affected expressly, or by some action relative to the subject-matter that is irreconcilable with the continuation of the agency. The death of the principal always revokes the agency unless the agent has an interest in the property on which his power is to be exercised. The death of the agent also revokes the authority. If a firm be agent and one member of the firm die, his estate can not be held for subsequent misuse of the authority by the surviving partner.

*Effect of Agent's Misconduct.*—A principal can not benefit by the fraudulent misrepresentation of his agent, even if he be entirely innocent and ignorant of the practice of the fraud, and if the party dealing with the agent suffer from the fraud the principal must make compensation.

The principal can not take advantage of a better bargain which his agent has obtained by falsely representing matters peculiarly within his or his principal's knowledge, although he be innocent and there be no actual fraud, but the third party may rescind the contract and recover back money paid to the principal by reason of such misrepresentation.

*Notice* to an agent is notice to the principal respecting any matter distinctly within the scope of the agency, if given before the transaction begins. Knowledge obtained by the agent in the course of that particular transaction is notice.

Actions brought by third parties for money paid to an agent to which the principal has color of right should be brought against the principal.

If an agent depart from instructions and the principal accept the results of his act he thus discharges the agent from personal liability for such deviation.

If a principal proposes to repudiate the act of an agent who has deviated from instructions he must do so at once and unequivocally as soon as he is fully acquainted with the circumstances. If he delay to see whether he may have a chance of making a profit, or if he exercise acts of ownership over the property, he will be held to have accepted and confirmed the act of his agent.

An agent can not in general delegate his power to another unless he is specially empowered to do so.

An agent is bound to exercise such care and diligence in the management of his principal's business as a reasonable man under similar circumstances would take of his own.

An agent may not dispute his principal's title unless such title were obtained by fraud.

An agent must not place himself adverse to the interests of his principal.

An agent must keep a correct account of all money trans-



actions and render the same to his principal when called upon or at proper times, and if he so mix his own and his principal's property that he can not render an exact account the whole of what is thus undistinguishable is held to belong to the principal. All profits made by an agent belong to the principal, except the agent's proper compensation. If an agent perform his services well and truly, according to instructions and the principal repudiate and refuse to accept, the agent may recover from the principal the stipulated price for his services.

## POWER OF ATTORNEY.

An attorney is an agent for a special purpose. A *letter of power of attorney* is authority in writing by which one or more persons give to one or more other persons power to transact a particular lawful business for them. The rules of law governing attorneys acting under special letter of authority are the same as previously recited for agents.

## FORM OF GENERAL POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS, That I, Charles Jolley, of Hebbardsville, Athens Co., O., have constituted, ordained and made, and in my stead and place put, and by these presents do constitute, ordain and make, and in my stead and place put Elmer Dent, of New Haven, Connecticut, to be my true, sufficient, and lawful attorney for me and in my name and stead and to my use, to ask, demand, levy, require, recover, and receive of and from all and every person or persons whomsoever the same shall or may concern, all and singular sum and sums of money, debts, goods, wares, merchandise, effects, and things whatsoever and wheresoever they shall and may be found due, owing, payable, belonging, and coming unto me the constituent, by any ways and means whatsoever.

GIVING AND HEREBY GRANTING Unto Elmer Dent, said

attorney, my full and whole strength, power and authority in and about the premises; and to take and use all due means, course, and process in the law for the obtaining and recovering of the same; and of recoveries and receipts thereof, and in my name to make, seal and execute due acquittance and discharge; and for the premises to appear, and the person of me the constituent to represent before any governor, judges, justices, officers and ministers of the law, whatever, in any court or courts of judicature, and there on my behalf to defend, answer and reply unto all actions, causes, matters and things whatsoever relating to the premises. Also, to submit any matter in dispute to arbitration or otherwise; with full power to make and substitute one or more attorneys under him, said attorney, and the same again at pleasure to revoke. And generally to say, do, act, transact, determine, accomplish, and finish all matters and things whatsoever relating to the premises as fully, amply and effectually, to all intents and purposes, as I, the said constituent, if present, ought or might personally, although the matter should require more special authority than is herein comprised, I, the said constituent, ratifying, allowing and holding firm and valid all and whatsoever Elmer Dent, said attorney, or his substitutes shall lawfully do, or cause to be done in and about the premises, by virtue of these presents.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 18th day of September, A. D. 1889.

CHARLES JOLLEY. [L. S.]

Signed, sealed and delivered in  
presence of John Vorhes.

#### FORM OF SPECIAL POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS, That I, Peter Hibbard, of Hebbardsville, Athens Co., O., hereby constitute and appoint Albert Lawson, of St. Louis, Mo., to be my true and

lawful attorney for me, and in my name and stead to (*here state the special power to be given*), hereby granting unto him, said attorney, full power and authority, in my name and behalf, to sign, seal, acknowledge and deliver any and all deeds, or other instruments in writing, which he may deem necessary or proper in the premises, and otherwise to act in and concerning the premises as fully and effectually as I might do if personally present.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the 18th day of September, A. D. 1889.

PETER HIBBARD, [L. S.]

Signed and sealed in presence  
of John J. Coe.

PARTNERSHIP.

A partnership consists of the combination of two or more persons in business for common profit, each one contributing his property, money, labor and skill, or one or all of these.

A partnership may be formed by oral or written agreement. It is always best whatever the other relation of the parties may be to have the partnership agreement clearly set forth in writing.

Persons competent to transact business on their own account may enter into partnership, the disabilities of infancy, lunacy, coverture, etc., applying equally in both cases.

The members of the partnership are called partners.

*An ostensible partner* is one whose name is published to the world as such, and who usually takes an active part in the business.

*A nominal partner* is one in name only.

*A silent or dormant partner* is one really a partner but who strictly takes no share in the transaction or control of the partnership business.

*A secret partner* is one not openly declared to be a partner.

Dormant and secret partners are liable equally with other members of the firm when discovered.

Partners must share losses in the same ratio in which they share profits unless there is a written contract to the contrary.

All kinds of property may be held in partnership, and when real estate is purchased with partnership funds, for partnership purposes, it will be treated as partnership property, and held like personal property, chargeable with the debts of the firm. A widow of a member of a firm has no dower in partnership real estate until all the firm debts are paid. These personal incidents of partnership real estate cease as soon as the debts of the firm are paid, and all remaining real estate has all the incidents of real property as to conveyance, inheritance, dower, etc. The firm debts to be settled before real property assumes its proper character include debts due from one partner to the other.

A partnership must be voluntary. No partner or majority of partners can introduce a new member into the firm without the consent of all the others. If one partner sells out his interest either to a remaining partner or to an outside party it works a dissolution of the partnership—all must agree to renew it. An employe who receives for his services a stipulated share of the profits is not a partner.

A person who loans money to another to assist him in his business upon the agreement that he is to receive lawful interest for the use of it and in addition a share of the profits of business, may, under some circumstances, be considered a partner, as if a third party who is a creditor of the borrower, upon a debt which has arisen in the same business which this money was lent to assist, should sue the lender as a partner and claim that he took away profits of the business that might have been used to pay this debt. He will be held as a partner and he can not set up the defense that the contract



was usurious, for that is unlawful and he can not rest his defense on his own wrong.

In general, one partner can not bring suit at law against another concerning any matters growing out of partnership affairs. These differences must usually be referred to courts of *equity*. But a partner may sue a co-partner on an agreement to do an act that does not involve partnership accounts; or on a promise made before the partnership was entered into to make certain advances of capital to the firm; or on his partner's note for advances made to him; or for damage done to his private property which the firm had used; or for a balance after all their accounts are settled up.

If a man is a member of two firms the firms can not be parties to a suit, because this person would then be both plaintiff and defendant of record in the same action.

If a partner retire from a firm but continue to receive a share of the profits he is liable, but not if he receive an annuity or a definite sum not depending in any way upon profits. When a partner retires from a firm notice should be given by public advertisement or by letters to the customers of the firm, or both.

A nominal partner shares neither in profits or losses, but is generally held responsible for the debts of the partnership. If he is not a partner but represents himself to be to certain persons and they, upon this representation, give the firm credit, he will be held liable as a partner.

The universal rule of law, both in Europe and this country, is that the whole firm and all the members of a co-partnership are bound by the acts and contracts of one partner with reference to partnership business and affairs—the act of one is the act of all. It is even held by good authority that one partner may make a valid assignment of all the partnership property to pay the debts of the firm. A partner may sell the whole

stock in trade by a single contract, and then apply the proceeds fraudulently to the payment of his private debts and this fact will not avoid the sale if the purchaser is wholly innocent of the fraud. But if a partner dissent from a contract which his co-partner is making and the third party have notice of such dissent he could not hold the dissenting partner. A and B are partners. C applies for credit. A is willing to extend credit but B objects. A says he will take the risk and credits C for one hundred dollars. C fails to pay. A must stand the loss individually; B can not be held liable.

If I loan money to a partner I can not, as a general rule, recover from the firm, unless I can prove that the money was actually applied to the firm's use. But if the partner who borrowed it was apparently clothed with authority to borrow money for the firm I may recover from the firm, even though the money was not applied to the firm's use. If I know, or have opportunity to know, that a partner who borrows money for his own use and gives me a note in the name of the firm, is exceeding his authority, I will probably lose the money, unless the borrower is individually good, for the firm can not be held on the note.

A purchase or a sale by one partner binds all the others, no matter what fraudulent intentions the partner may have had, unless it can be shown that there was collusion between the partner and the third party, seller or buyer. The power of one partner to sell is confined, however, to personal effects. A partner can not mortgage or sell real estate in his own name. The act of a partner must be within the scope of the business of the firm in order to bind the firm; or it must arise out of and be connected with their usual business. But the act of one partner in outside matters will bind all if it receives the firm's or all the partners' sanction and confirmation.

If a firm owe a debt a partner may bind the firm for that

debt by giving a partnership note, even against the wishes of the other partners.

A person who buys partnership property from a partner, knowing it to be a fraud upon the firm, may be held to be a trustee for the firm.

A release by one partner is a release by all. A release to one partner is a release to all.

The signature or acknowledgment of one partner, in partnership matters, binds the firm.

A notice to one partner is notice to all.

An incoming partner is not presumed to be liable for old debts, but may be shown to have assumed them. But if a person succeeds to the interest of a retiring partner and continues to transact the business as before with the other members, he becomes a member under the original articles of partnership, unless there is positive evidence to prove the contrary.

It is not positively determined whether the majority of the partners can bind the minority against their will. The decisions in favor of this position usually limit the exercise of this power to matters of minor importance, or to the internal concerns of the firm. The just rule will probably be found to draw a distinction between partnerships made by articles and not determinable at the pleasure of the partners and partnerships that may be dissolved at any time by mutual consent. The majority should not be permitted to govern in the former class because the minority would be left absolutely without remedy, and could not even escape by dissolution. But in the latter class where a dissenting partner may dissolve the partnership at will the majority should govern.

*Dissolution of partnership* does not affect the liability of partners for former debts, but it prevents the incurring of any new partnership liability. If a partnership is made for a time

certain and one of the partners dissolve it before the expiration of that time, the other may maintain an action against him for damages, the measure of which will be the profits that would have accrued to the plaintiff from a continuance of the partnership business to the end of the time. If a partnership is not to endure for a time certain it may be dissolved at any time by either partner. It should be done with due notice to other partners, and at such time as not to cause damage or injury, and without fraud—the law would not sanction a fraud.

Death of any partner dissolves the partnership. In England civil death, as attainder for treason or felony, would have the same effect but not in this country.

Bankruptcy of the firm or of one partner dissolves the firm at once.

After a dissolution no partner has a right to bind his former partners by any new contract. When a partner dies the partnership property goes to the other members of the firm for the purposes of settlement. They have all the power necessary for this particular purpose and no more.

*Limited Partnership.*—Limited partnership is a modern innovation and purely the creature of statutory enactment. It may be defined as a partnership in which one or more of the members put money into the stock of the firm and incur responsibility and share profits in the proportion to the money thus invested, and no more. It differs from common law partnership in this that there every partner is liable for the whole debts of the firm. The States have nearly all adopted legislation providing for limited partnerships, and they are in many cases very useful, enabling men of business capacity who have only energy, skill, industry and integrity, to secure capital necessary to carry on a business profitably. Under the old plan the capitalist would not, in many instances, as-



sume the great risk of investing money in a partnership, against another man's labor and skill, because considerable indebtedness might be incurred and he would be liable for the whole.

The general provisions of these statutes, which differ considerably in the different States, are as follows: 1. There must be one or more who are *general* partners, and one or more who are *special* partners. 2. The special partners have not all the powers and duties of active partners, nor do their names appear in the firm. 3. The special partners must actually pay in the sum proposed to be contributed by them. 4. The agreement must be in writing, setting forth the amount paid in, the names of the partners, and other particulars, and must be acknowledged before a magistrate or notary, and then recorded and advertised, so as to give the public distinct knowledge of the whole arrangement, whom they are dealing with, the exact liability of each one, and to whom credit is given.

A special partner in a limited partnership must comply strictly with the requirements of the statute in order to relieve himself of liability for the firm's debts. Any disregard of the law, or any mistake, even a mistake of the printer who prints the advertisement, of which he is entirely innocent, will deprive him of the benefit of the statute. He then becomes a partner at common law and liable *in solido* for the whole debts of the firm.

#### ASSIGNMENTS.

An assignment is the transfer by writing of the whole of any property, real or personal, in possession or in action, or of any estate, right, title or interest therein. All the property that a man can possess is assignable. An instrument is now assigned by writing the following across the face of it: "I hereby assign, transfer and set over to E. H. Baker, all my

right, title and interest, in and to the within document. W. M. Tugman."

#### GENERAL FORM OF ASSIGNMENT.

KNOW ALL MEN BY THESE PRESENTS, That I, John S. Andrews, for value received, by these presents do assign, transfer, and set over unto L. K. Torbet (*here describe things assigned*).

TO HAVE AND TO HOLD the same unto the said L. K. Torbet, his executors, administrators and assigns, forever, to and for the use of my wife, Tillie Andrews, hereby constituting and appointing said L. K. Torbet, my true and lawful attorney irrevocably, in my name, place and stead, for the purposes aforesaid, to ask, demand, sue for, attach, levy, recover and receive all such sums of money which now are, or may hereafter become due, owing and payable for, or on account of, all or any of the accounts, dues, debts and demands above assigned to him giving and granting unto the said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary, as fully, to all intents and purposes as I might, or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the 20th day of September, A. D. 1889.

JOHN S. ANDREWS.

Executed and delivered in the  
presence of J. R. P. Brown.

A note or check is assigned simply by writing the name of the payee on the back, and this endorsement is a warranty of the validity of the paper.

## FORM OF ASSIGNMENT DEED FOR CREDITORS.

KNOW ALL MEN BY THESE PRESENTS: THAT WHEREAS, John Brennan, of Hamilton County and State of Ohio, is indebted to divers persons in various sums of money, which he is now unable to pay in full, and whereas, he is desirous to convey all his property for the benefit of his creditors, without any preference or priority.

NOW, THEREFORE, I, the said John Brennan, in consideration of the premises, and of one dollar to me paid by John Wentzel, the receipt of which I hereby acknowledge, have granted, bargained, sold, assigned, transferred, and set-over, and by these presents do grant, bargain, sell, assign, transfer, and set-over unto said John Wentzel, all and singular the lands, tenements, hereditaments and appurtenances, goods, chattels, stocks, promissory notes, debts, choses in action, evidences of debt, claims, demands, property and effects, of every description, belonging to me, wherever the same may be situated, except such property as is by law exempt from execution; to have and to hold the same unto said John Wentzel, in trust, to sell and dispose of the said real and personal property, and to collect, sue for, and demand, receive and recover all such sums of money as may be or become due, owing, and payable on said promissory notes, debts, choses in action, evidences of debt, claims and demands, and then in trust to apply the proceeds arising from the same as follows :

FIRST. To pay the lawful costs and expenses of executing the trust hereby created, including reasonable attorney's fees for legal advice in regard to the formation of the trust, and for drawing this deed of trust.

SECOND. To pay to each and all of my creditors the full sums that may be due and owing to them from me ; provided, however, that if there shall not be sufficient funds with which

to pay all my said debts, then the said debts are to be paid ratably and in proportion.

THIRD. If the proceeds as aforesaid shall be more than sufficient to pay and satisfy every one of my creditors, then to pay and return to me the balance that may be left, if any, after paying all my creditors as aforesaid.

And I do hereby nominate, constitute, and appoint the said John Wentzel my true and lawful attorney, irrevocable, in my name or otherwise, for the purpose aforesaid, to execute the trust hereby created; giving and granting unto him, said attorney, full power and authority to do and perform every act, deed, and thing requisite and necessary in the premises, as fully to all intents and purposes, as I might or could do, if this assignment had not been made; with full power of substitution and revocation, hereby ratifying and confirming all that he, the said attorney, or his substitute may lawfully do, or cause to be done, in the premises by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this 20th day of September, in the year of our Lord one thousand eight hundred and eighty-nine.

JOHN BRENNAN. [SEAL.]

Signed, sealed and acknowledged, in presence of us:

HARRY L. COOPER.

EDWARD FLAIGE.

This deed must be acknowledged before a Notary same as an ordinary deed.

ACCEPTANCE BY ASSIGNEE.

I hereby accept the trust created by the above instrument, and agree to faithfully perform the same.

JOHN WENTZEL.

Done at Cincinnati, this 20th day of September, A. D.  
1889.



## LIENS.

A lien is a legal claim or charge upon real or personal property for the satisfaction of some debt or duty. It is a right in one to hold the property of another until some claim of the former is paid or satisfied.

If the lien is on personal property a requisite is the lawful possession of the property by the person who claims the lien. If he voluntarily part with possession he loses his lien.

Carriers have a lien on goods for the carrying charges.

Attorneys have a lien on all the papers in a case for their fees.

Vendors have a lien on goods sold, and not delivered, for their pay. Seamen have a lien on freight and vessel for their wages. But sailors in the government employ have no lien on government vessels.

Pawnees have a lien on goods pawned where the pawnor has authority to pledge, but not otherwise.

Mechanics, laboring men, and furnishers of material, have a lien on real estate improved by such labor or material. This class of liens is controlled in all the States by statute and as the law in each State must be strictly complied with we append an abstract of the lien laws of the States. It may be laid down as a general rule that the claim must be filed in some public office with notice of the intention to hold the property for the labor performed or material furnished. Also that it does not matter whether the claim is for the erection, alteration or repair of a building, the laborer has a lien, and generally on both the building erected and on the real estate or ground upon which it stands, as they become inseparable after erection.

ALABAMA.—Original contractor must file claim in probate court within six months; workmen in thirty days, from last work done. Suit must be brought in ninety days.

ARIZONA.—Notice under oath must be filed within ninety days in recorder's office with account of demand due. A sub-contractor must file his claim within sixty days from completion of work. Suit must be brought within six months, and no lien is continued in force longer than two years.

ARKANSAS.—Account must be filed in circuit court in three months and suit commenced in nine months thereafter.

CALIFORNIA.—Lien is on buildings. Claim must be filed in thirty days by sub-contractor, or laborer, and sixty by original contractor and suit must be brought in three months from filing claim.

COLORADO.—Lien is allowed where claim exceeds twenty-five dollars. Principal contractors have forty days, sub-contractors twenty days to file claims, and suit must be commenced in six months after filing.

CONNECTICUT.—Claim must exceed twenty-five dollars, and be filed in sixty days. Leins extend to railroads. Also to vessels if claim filed in ten days.

DAKOTA.—Notice with claim must be filed in ninety days with affidavit. If other collateral security is taken lien will not be allowed.

DELAWARE.—Claims must exceed twenty-five dollars and be filed within six months.

FLORIDA.—Lien is not allowed unless contracts under which labor was performed or material furnished are in writing and recorded. Claim must be filed in six months and suit brought in twelve months from completion of work. Liens extend to crops.

GEORGIA.—Lien must be recorded in clerk's office in thirty days and suit brought in twelve months.

IDAHO.—Notice with account and affidavit must be filed in recorder's office in sixty days and suit brought in six months. Liens extend to mines, ledges, claims and quartz lodes.

ILLINOIS.—Suit must be brought in six months from completion of work.

INDIANA.—Notice must be filed in sixty days and suit brought in one year.

IOWA.—Claim must be filed in ninety days and suit begun in two years.

KANSAS.—Claims must be filed in Circuit Court in four months and suit brought in one year. Sub-contractors must file claim in sixty days.

KENTUCKY.—Claim must be filed in sixty days and suit be brought in six months. Laborers and sub-contractors must give written notice to the owner that they intend to take advantage of the lien law.

LOUISIANA.—Liens are called privileges in this State. They must be recorded. A seller also has a lien on the property sold for the payment of the price.

MAINE.—Liens must be enforced by suit brought within ninety days. Boat builders have lien on vessel, and lumbermen on logs handled.

MARYLAND.—Lien on building to extent of one-fourth of its value; also on machines or vessels. Claim must be filed in Circuit Court of the county or Superior Court of Baltimore; lien expires in five years and on vessels in two years. The counties of Kent, Calvert, Charles and St. Mary's are exempt from the lien law except as to boats and vessels.

MASSACHUSETTS.—Claim must be filed in thirty days and suit brought in ninety days. If owner of property is not a party to the contract lien for materials will not attach unless owner is given previous notification in writing.

MICHIGAN.—Copy of contract must be filed with register of deeds before lien will attach. Suit must be brought in Chancery in six months from the time the debt becomes due or lien ceases. Suit may be brought against owner and contractor jointly.

MINNESOTA.—Lien on building and land—not exceeding forty acres in country or half acre in city or village. Account to be filed with register of deeds in one year and suit brought in two years or lien expires.

MISSISSIPPI.—Lien must be enforced by suit in Chancery filed within six months. Lien takes effect upon filing contract in Court of Chancery.

MISSOURI.—Original contractors' claims must be filed in clerk's office of Circuit Court in six months; mechanics' and laborers' in thirty days. Suit must be commenced in ninety days after filing.

MONTANA.—Liens extend to ranches, mining claims, quartz lodes, and are on improvements and land. Claim must be filed with recorder in thirty days by sub-contractors, and all others in sixty days. Ranchmen have a lien on cattle or stock pastured, herded or fed for another for the pay.

NEBRASKA.—Account must be filed in county clerk's office in four months. Lien is valid from date of first item to two years after date of last item.

NEVADA.—Original contractors must record lien in sixty days; all others in thirty days. Lien expires in six months thereafter unless suit is brought. If claim does not exceed twenty-five dollars no lien is allowed.

NEW HAMPSHIRE.—Liens run for ninety days and take precedence of all attachments. They extend to lumber which laborers may be cutting. Laborers on vessels have a lien enforceable by attachment which runs four days after vessel is completed.

NEW JERSEY.—Claim must be filed and suit brought within one year. If the contract for the building is duly filed only the contractor has a lien.

NEW MEXICO.—Liens extend to mining claims, railroads and other structures. Original contractors must file claim in



ninety days and all others in sixty days, verified upon oath, with county recorder. Suit must be brought in one year, and no lien continues in force longer than two years.

NEW YORK.—Claim must be filed in sixty days and suit brought in one year.

NORTH CAROLINA.—Liens are allowed on building and land and also on personal property repaired or made.

OHIO.—Lien is on all property erected or repaired, and on real estate. Claim, with full statement of account and all offsets, must be filed in office of county recorder in thirty days after the expiration of three months from the completion of the work. Suit must be brought in one year from filing of claim, otherwise lien will be deemed to be waived. After filing of suit lien runs until it is finally adjudicated.

OREGON.—Amount of claim must exceed twenty dollars and claim must be filed in three months and suit brought in one year.

PENNSYLVANIA.—Claim must be filed in court of Common Pleas in six months and is valid for five years. Mechanics laboring in a factory have a lien upon the manufactory for wages not exceeding two hundred dollars.

RHODE ISLAND.—Claim must be filed with town clerk and suit brought upon the same in four months.

SOUTH CAROLINA.—Claim must be filed in thirty days and suit brought in ninety days. If the owner is not a party to the contract a lien for materials will not be allowed unless written notice is given him.

TENNESSEE.—Sub-contractors and laborers must notify owner before commencing work if they intend to claim a lien. Lien is good one year. Will take precedence of mortgage if contract for work has been made with mortgagor with mortgagee's consent. Landlords have a lien on crops for rent, and on growing crops for necessities supplied.

TEXAS.—Contract for work must be in writing and recorded in six months in order to give lien. Landlords have a lien for necessities supplied a tenant to enable him to raise a crop.

UTAH.—Claim and notice must be filed with the recorder in three months. Suit must be commenced in one year from completion of work. Lien holder has lien upon building and right of possession of the ground.

VIRGINIA.—Lien is on both building and ground.

WASHINGTON TERRITORY.—Claim must be filed in sixty days with county auditor, verified by affidavit.

WEST VIRGINIA.—Account and description of property must be filed with clerk of County Court in thirty days. Suit must be brought in Chancery in six months.

WISCONSIN.—Lien covers building and ground, but not more than forty acres in the country.

WYOMING.—Claim must be filed with register of deeds in sixty days and suit must be brought in one year thereafter.

PROVINCE OF QUEBEC.—The lien is on the additional value resulting from the work. An official statement must be made by an expert of the state of the premises before work commences, and in six months after completion the work must be accepted by another expert, both experts to be appointed by the court.

PROVINCE OF ONTARIO.—Lien extends to the owner's interests in both buildings and land. Lien must be recorded in county register's office in one month after completion of work.

NOVA SCOTIA.—The contract for work must be in writing and it and claim must be duly registered in thirty days. Suit must be brought in ninety days after registry.

## FORM OF MECHANICS' LIEN.

*Cincinnati, Ohio, September 21, 1889.*

I hereby certify that the following is a just and true account, with all just credits given, of the amount due me for labor performed (*or "materials furnished and actually used"*), in the erection (*or "alteration" or "repair"*) of a building on a lot of land in Cincinnati, Hamilton County and State of Ohio, which lot is described as follows: (*here describe so as to identify;*) said lot of land being owned, to the best of my knowledge and belief, by W. C. Poole.

## ACCOUNT.

W. C. POOLE, DR.

TO ALEXANDER SUTHERLAND.

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I further certify that I ceased to perform labor on (*or "furnish labor for" or "furnish materials for"*) said building on the 30th day of June, 1889, and that I hereby claim a lien upon said building, and upon the interest of the owner thereof, in the lot of land upon which it stands, to secure the payment of the debt due me as aforesaid, and of the costs which may arise in enforcing said lien.

And I further certify that there are no further credits or offsets against said claim than those set forth in above account.

ALEXANDER SUTHERLAND.

State of Ohio, }  
Hamilton County, } ss.

Personally appeared before me a Notary Public in and for Hamilton County, Ohio, the above named Alexander Sutherland and made oath that the foregoing statement and account subscribed by him is true.

ELLIS B. GREGG,  
Notary Public, Hamilton Co., O.

It is not necessary in all the States to describe the land on which the building or improvement stands, but it is always well to do so. The form given above will be found sufficient, we believe, for any State in the Union.



## CHAPTER IV.

### MARRIAGE AND DIVORCE.

**M**ARRIAGE is the most important institution of human society. It is the essential condition precedent to the maintenance of the family; and the family is the basis of our government, contributing to the strength and support of all civilizing and moralizing institutions, and providing an impregnable bulwark against the vicious influences that degrade man's nature, cultivate passion and encourage lust. Marriage thus involves the dearest and most valued interests of all classes, and a brief exposition of the nature of marriage, the duties and obligations it imposes, the laws governing it, and methods of dissolving it, will be of value and interest to the general public.

#### MARRIAGE.

There has long existed not only in the public mind, but in judicial opinions and decisions much confusion as to what marriage really is. In order to arrive at a clear understanding of this, let us trace the steps that lead to the married state. First there is the contract to marry. This can be entered into only by a man and a woman legally capable of intermarrying. But this contract to marry is not marriage. It is like any ordinary contract. The parties must be competent, in order for an action for damages to lie for failure to perform the contract, although a person who is already married or otherwise incapable of marrying may be sued for damages by another to whom he has made the promise to marry unlawfully. It must be based upon a consideration, but this consideration usually consists of mutual promises. Fraud or mistake,

as concealing unchastity, will justify breaking the contract. A contract to marry between an infant and an adult is binding on the adult and voidable by the infant. If one becomes physically incapable of performing the functions of marriage by the "act of God" after the promise is made the other may withdraw from the promise. An action for damages lies for a breach of this contract like any other, and the contract is ended by performance or the act of marrying legally performed. Performance of this contract is actual marriage, by which the parties become, in law, man and wife. Nothing short of this is performance.

The next step after the contract to marry is the act of becoming married—the legal formalities by which the parties become man and wife. But this is not marriage. It is the door through which the parties enter into the marriage state.

*Marriage Defined.*—Marriage, then, as distinguished from the agreement to marry, and from the act of becoming married, is the civil status of one man and one woman united in law for life, for the discharge, to each other and the community, of the duties legally incumbent on those whose association is founded on the distinction of sex. This is Bishop's definition, which is now generally accepted as correct in this country.

It will be observed that this definition does not state that marriage is a contract. The fact is, marriage is not a contract; it is a state or condition. True, it has been defined as a contract by courts and writers from time immemorial, and still while defined as a contract it has not been treated according to the laws and principles of contracts. While the consent of the parties is necessary to the preliminary contract to marry and to entering into the marriage status, this is not sufficient to withdraw from the state when once assumed. In fact, the rights, obligations and duties of the parties are not

entirely regulated by themselves, but are, to a great extent, subject to legislative regulation, over which they have no control.

The Roman Catholic Church holds marriage to be a sacrament. Protestants do not go so far, but consider it of divine origin and invest it with the sanctions of religion.

If the ideal married life were always attained—if neither married partner ever deserted the other, or committed adultery, or beat or abused the other, and each at all times sacrificed self and did everything possible for the happiness and sustenance of the other and the entire family, then both would walk the flower-fringed path of life hand in hand, up its grassy slopes to the glory of full manhood and womanhood, and down its mossy declivities to the ripeness of perfect old age, and lie down together to sleep the sleep of the just at the foot of the hill, conscious of having accomplished life's noblest mission. If this state of things obtained universally there would be no divorces, no divorce courts, and no treatises on divorce would be necessary.

But, alas, in marriage as in other relations of life, men and women are prone to err, and this being true the sentiment of this country and of a large majority of the civilized world is in favor of the courts furnishing redress for matrimonial wrongs the same as for others. Many good people, however, think that this class of wrongs ought to be different from all others and no redress permitted. These people mostly make their opinion a matter of religious faith, holding, in effect, that if one is defrauded of the value of a cent the courts should compel restitution, but if a trust which embraces all that makes life worth living or earth endurable is violated the courts should afford no relief.

But our courts do afford relief from the ills and wrongs incident to married life, and it seems but just and right in many instances that they should.

*Subject to State Laws.*—The State courts have entire jurisdiction of the subjects of marriage and divorce within their respective limits. The National Government controls the subjects entirely in the District of Columbia and in the territories. In 1850 Congress provided for divorces in the District of Columbia, and as early as 1826 Congress annulled several acts of the legislative council and governor of the Territory of Florida granting divorces. In 1862 Congress passed a law punishing polygamy in any "Territory or other place over which the United States have exclusive jurisdiction." In 1860 Congress provided that "all marriages in the presence of any consular officer in a foreign country, between persons who would be authorized to marry if residing in the District of Columbia, shall have the same force and effect, and shall be valid to all intents and purposes as if the said marriages had been solemnized within the United States."

*Consent.*—A prerequisite to valid marriage is the free consent of the parties. Third parties are frequently affected in their property interests by a marriage and then it becomes important to know what constitutes a valid marriage—a real marriage. If two people were brought together by force and an authorized minister or justice of the peace were to pronounce the necessary marriage ceremony over them, this would not make them husband and wife.

If one of the parties is insane, that party can not give consent, and therefore a ceremony performed would not make the parties husband and wife, and would not take rights of property from third persons.

However, a Virginia statute is as follows: "All marriages between a white person and a negro, and all marriages which are prohibited by law on account of either of the parties having a former wife or husband then living, shall be absolutely void, without any decree of divorce or other legal process.



All marriages which are prohibited by law on account of consanguinity or affinity between the parties, all marriages *solemnized when either of the parties was insane*, or incapable from physical causes of entering into the marriage state, shall, if solemnized within this State, be void *from the time they shall be so declared by a decree of divorce or nullity*, or from the conviction of the parties under the third section of the one hundred and ninety-sixth chapter."

If this means anything it means that a marriage with an insane person is good until dissolved. It is difficult to believe that any body of sane men would enact so unjust, vicious and iniquitous a statute, but there it is. Let us see the results: Suppose a woman is insane. In this condition, by some trick often easily accomplished, an adventurer has a marriage ceremony performed with her. Her property is at once by the marriage transferred to him. All suits pending against her are abated, and she can not be used as witness in any suit that was previously pending against her present husband. If they live long enough and she become sane enough to apply for it, a divorce may be procured. But even then the marriage would only be made void from the date of the divorce, not from the beginning, and all the evil consequences would already be accomplished. Did the legislature contemplate so grave results when they enacted the law?

A Massachusetts statute is as follows: "Section 1. All marriages solemnized within this State, which are prohibited by law on account of consanguinity or affinity between the parties, or on account of either of them having a former wife or husband then living, or when either party was *insane or an idiot*, shall be void without any decree of divorce or other legal process. Section 2. The validity of a marriage shall not be questioned *in the trial of a collateral issue*, on account of the *insanity or idiocy* of either party, but only in a process duly in-

stituted in the lifetime of both parties for determining such validity."

Here is confusion confounded. Section one declares the marriage of insane or idiotic persons absolutely void; section two of the same act declares the marriage good until avoided in the lifetime of both parties; in other words voidable.

Wisconsin had a similar statute, which may have been modified: "When either of the parties to a marriage, for want of age or understanding, shall be incapable of assenting thereto, or when the consent of either party shall have been *obtained by force or fraud*, and there shall have been no subsequent voluntary cohabitation of the parties, the marriage *shall be void from the time its nullity shall be declared* by a court of competent authority." This statute is more wicked if possible than the Virginia law. If it means anything, it means that people may be married without their consent. We know that if a ruffian robs a lady on the highway, of her watch, he thereby acquires no title to it, but by this statute he may throttle her and hold her by brute force until a confederate magistrate pronounce the marriage ceremony and thus becomes legally invested with all her personal property. She must be regarded as his wife until she can bring the scoundrel into court and prove her want of consent. Can any one conceive of anything more brutal, more revolting to all ideas of justice, humanity and right? This hideous doctrine originated, we believe, in New York, which had at one time a similar statute, and many of the States followed in her wake. The courts have gone to the extreme limit in the interpretation of these laws to preserve the property rights of third parties and prevent persons from being held by law as married when they had never consented to matrimony or intended it. A Massachusetts judge said: "If it would be hard that the issue of such marriage should be deemed bastards, it would be

as much so that human beings without reason, or their families, should be the victims of the artifice of desperate persons, who might be willing to speculate on their misfortunes."

We quote these statutes to show the confusion that has existed in the minds of legislators on the subject of marriage; we say confusion, for it can not be presumed that the full legal consequences of these acts were foreseen when enacted; that they intended to place legislation so vicious upon the statute books.

*Void and Voidable.*—In general "a marriage is termed void when it is good for no legal purpose, and its invalidity may be maintained in any proceeding, in any court, between any parties, whether in the lifetime or after the death of the supposed husband and wife, and whether the question arises directly or collaterally."—*Bishop*.

"A marriage is voidable when in its constitution there is an imperfection which can be inquired into only during lifetime of both of the parties, in a proceeding carried on for the purpose of obtaining a sentence declaring it null. Until set aside, it is practically valid; when set aside, it is rendered void from the beginning."—*Idem*.

Statutes may depart from or alter these general rules of law as was seen in those quoted, but this should not be so.

A child resulting from a void marriage is a bastard.

A child resulting from a voidable marriage is legitimate, but if the marriage is set aside by a decree of nullity, the child becomes illegitimate. This is the universal unwritten law, but statutes may limit this doctrine.

*Elements Constituting Marriage.*—The elements that constitute a valid marriage are: 1. *Mutual Consent.*—This must be free from force or fraud. 2. *Mental Capacity.*—This must be such capacity of mind as is required in the parties to an ordinary contract. 3. *Adequate Age.*—The incapacity of youth

does not depend upon the actual number of years attained, but whether the party has attained that physical maturity which is enabled to perform the functions of marriage. Mere infancy in itself is no disqualification. It is possible for a person to have arrived at the age of twenty-one or even older without having acquired physical capacity. So that this element of age is really embodied in the next. 4. *Physical Capacity*.—Impotent persons, of whatever age, can not contract perfect matrimony. Impotence is a disqualification to be proved in each particular case. At common law the age of puberty, or the marriageable age, is fixed at fourteen in males and twelve in females. The reason for fixing these years has been differently stated by various writers. Littleton calls it the “age of *discretion*.” Ayliffe calls it the “age of persons which the law has deemed capable of advice and understanding.” But Swinburne has much more fully comprehended the true reason in the following language: “The reason is, that because at these years the man and the woman are not only presumed to be of discretion and able to discern betwixt good and evil, and what is for their profit and disprofit, but also to have natural and corporal ability to perform the duty of marriage, and in that respect are termed *puberes*, as it were plants, now sending forth buds and flowers, apparent testimonies of inward sap, and immediate messengers of approaching fruit.”

This common law rule of fourteen and twelve years originated in the warm and luxurious climate of Italy, where sexual development is much more rapid than in colder northern latitudes, hence the rule has been altered in many States, the age of consent being made later in life. The only effect is to substitute the statutory years for the common law years. The North Carolina statute says “females under the age of fourteen, and males under the age of sixteen years, shall be incapable of contracting marriage.” The Supreme court of the



State, Pearson, C. J., delivering the opinion, held that a marriage of persons under these ages, who continued their cohabitation after the ages were passed, was valid. The same has been held in Iowa, which has a statute fixing the ages of consent at eighteen and fourteen.

Another age to be considered is seven. A marriage between parties either of whom is under seven is absolutely void. If both parties are over seven and under the age of consent, or if only one is under the age of consent, they may contract an imperfect or voidable marriage. A marriage imperfect in this respect can not be voided or annulled until the one objecting to it has arrived at the age of consent, and perhaps not until both have arrived at that age. There is a case in the books where a wife aged eleven years objected to the marriage. The husband was then at the age of consent, *i. e.*, over fourteen. He married another woman and by her had a child. This child was adjudged a bastard, because the former marriage continued valid; for the first wife when she dissented from the marriage had not arrived at the age when she could dissent and the first marriage could not formally be declared null. A case occurred in New York in which a man married, in form, an infant girl under twelve years of age. She at once declared her ignorance of the nature and consequences of the ceremony, and her dissent. Her next friend brought a bill before Chancery and the court ordered her to be placed under the protection of the court as a ward and prohibited the man from all intercourse or correspondence with her under pain of contempt. This plan seems just, for it protects the girl during her inability to give legal assent and leaves her free to affirm the marriage when she arrives at the age of consent.

5. *Freedom*.—Slaves can not contract a valid marriage. There is no slavery in this country now, but the consequences of slave marriages still continue. When slavery existed in

New York a statute provided that a marriage between parties one or both of whom were slaves was valid, and their children legitimate. If one was free and the other a slave the children were considered the free and legitimate offspring of the free one.

Massachusetts had a similar law. In Connecticut if a slave married a free woman with his master's consent he was emancipated.

Marriage and slavery have always been considered inconsistent. "The rights and duties of a husband are incompatible with a state of slavery," says Reeve.

In the late slave States a more logical condition of the law prevailed. Slave marriage was a nullity. Emancipation has generally been held to make a previous slave marriage valid, provided the parties continued to live and cohabit together and thus confirmed it, although in Kentucky, whose statutes require a formal ceremony to make a marriage good, the courts have held against this doctrine.

6. *Formalities.*—The law in some places requires certain formalities to be performed. The rule of the courts in determining whether a marriage performed in disregard of the statute is void is as follows: A marriage good at common law is good notwithstanding the existence of any statute on the subject, *unless the statute contains express words of nullity.*

If a statute forbids the solemnization of a marriage without a license, still a marriage so performed is good unless the law expressly say that it is void. To sum this matter up generally, nearly all these statutory provisions are directory. They provide certain forms to be followed by the officers and by the parties, and frequently impose a penalty upon officers for disregard of their provisions, but the rule of law is that whatever punishment may be put upon the officer for disregard of the statute, even if he should be sent to the penitentiary for

life, it would not effect the validity of the marriage, unless the law expressly states that the marriage is void on account of that particular dereliction of official duty. In Ohio a minister or magistrate is severely fined and punished for performing the marriage ceremony for parties who have obtained no license, still if he should do this, taking the risk of punishment, the marriage would be valid.

In addition to these elements which constitute valid marriage there are a few elements the presence of which renders marriage invalid or voidable: 1. Fraud. 2. Error. 3. Duress. It is not possible in this brief treatise to go into a full discussion of this intricate subject, but we sum it up in this: the authorities are clear to the general conclusion that fraud, error, or duress will, when of the required sort and magnitude, render the marriage void or voidable.

*Marriage good where celebrated good everywhere.*—It is a rule of law now well established that a marriage good where celebrated is good everywhere. This rule will never be construed, however, by courts in Christian countries, to uphold bigamous, polygamous, or incestuous marriages.

A man domiciled in Massachusetts had been divorced for his adultery, and a statute of the State disqualified him, being the guilty party, from remarrying. To avoid this he and the woman whom he desired to marry went to Connecticut and were married and immediately returned, and the Massachusetts courts held the marriage valid.

The same State made a white person and a negro incapable of marrying and to avoid this statute a white person and negro went to Rhode Island and were married and returned, and the Massachusetts courts pronounced this marriage valid. Since that Massachusetts has enacted a statute which prevents such decisions, as follows: "When any persons, resident in this State, shall undertake to contract a marriage contrary to the

[provisions of the statute], and shall, in order to evade these provisions, and with an intention of returning to reside in this State, go into another State or country, and there have their marriage solemnized, and shall afterward return and reside here, such marriage shall be deemed void in this State."

The law of Kentucky renders a nephew and his uncle's widow incompetent to marry. Such parties domiciled there, went into Tennessee where no such law prevailed and were married and returned to Kentucky to live, and were held by the Kentucky courts to be lawful husband and wife.

On the other hand comes a case from Virginia whose law makes the marriage of a white person and a negro void without decree of divorce or other legal process. A white person and a negro to avoid this statute, both being residents of Virginia, went to the District of Columbia and were married, and returned to Virginia, living together as man and wife. They were arrested upon the charge of fornication or illicit cohabitation. This case was carried, we believe, to the Court of Appeals, which affirmed all the decisions of the lower courts that the marriage was an attempted fraud upon the laws of Virginia and void, and the parties, of course, guilty.

The law, however, seems to be pretty well established as stated in the outset of this subject.

Likewise a marriage invalid where celebrated is invalid everywhere. An exception to this, and the only one worth mentioning, is the case in which the parties can not marry conformably to the laws of the place where they are. In this case if they can marry conformably to the laws of their own country let them do so and it will be there held valid though invalid where performed.

*Consequences of Invalid Marriages.*—The consequences of invalid marriages are distinctly of two kinds: 1. Criminal. 2. Civil. The offense of having two wives or two husbands



at the same time is usually now termed bigamy, although the old canonical definition of bigamy would make it inapplicable to such a case. The canonists made a bigamist one who married a second time whether the former consort was living or dead, or one who married a widow. The word bigamy comes from the Latin *bis*, twice, and Greek *gamos*, marriage. The better word for this relation according to the original meaning would be polygamy, which comes from the Greek *polugamia*, a plurality of wives or husbands at the same time. Bigamy and polygamy are both recognized and punished as crimes in modern criminal law. Polygamy was an offense against the canonical law of England, but not against the common or statute law until the reign of James I., when a statute passed in 1604 made it a felony if committed "within his majesty's dominions of England and Wales," except where the former husband or wife remained seven years continuously beyond sea, or the same time within his majesty's dominions not known to the other to be living, or was divorced, or there was a sentence of nullity, or the parties to the former marriage were within the age of consent. This statute has been the model of all statutes passed on the subject since, both in England and this country. But a divorce from bed and board is no longer a protection against the penal consequences of a second marriage, nor is seven years' absence beyond seas if the absent party is known to the other to be alive. In the States and by the United States statute the punishment for bigamy or polygamy extends to fine and imprisonment. See Bigamy under "Law of Crime."

*Civil Effects.*—An existing marriage renders a second one void. This is true even though some exception in the statute on polygamy or some principle of the common law exempts the one entering into it from statutory punishment. As, if a woman whose husband had been absent and unheard from

for seven years, and she believed him dead, and remarried, and he then returned alive. She would be relieved from punishment for bigamy but her second marriage would be void.

*Who May Take Advantage.*—This subject affords a remarkable exception to an old and well established rule of law, viz., that a party is estopped from alleging his own wrong in a court of justice. In consequence of this rule a party can not bring a suit to have his marriage set aside on the ground that it was contracted through his own fraud, though in law it is void. But this rule does not apply to polygamous marriages. It has been decided in several States and seems to be well settled that a person who has entrapped another into a polygamous marriage may, as well as the innocent party, bring a suit to have its nullity declared.\* The most valid reason assigned by the courts for this decision is that the impediment is a distinct thing from the fraud, not depending upon it in any way.

If a marriage has been declared void by a decree of nullity this relieves the parties from the rule of evidence which protects what passes in confidence between husband and wife. After this decree either of them can be a witness to what transpired during their alleged marriage.

A pauper woman can not claim the man's settlement upon her after their marriage has been declared void.

As between themselves the parties after a decree of nullity are as though no marriage ceremony or form had ever taken place. They are single if they were single before, and their property rights are viewed as though no marriage form had ever taken place. The woman can not claim any share in his property, nor alimony or dower; the man can have no interest in her estate nor curtesy in her lands. She can sue and be

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\**Glass vs. Glass*, 114 Mass. 563, 566; *Ponder vs. Graham*, 4 Fla. 23; *Martin vs. Martin*, 27 Ala. 86.

sued as any *feme sole*. She can even maintain an action at law against the man for property which was hers before their alleged marriage and for her services to him during cohabitation.

Children born to them are, by operation of the decree, necessarily illegitimate, whether the marriage was void or voidable. The legislatures of our States are now taking a more merciful view of this case, however, and adopting the civil law rules which make such children legitimate. Missouri has a statute that makes the children of a void marriage legitimate. Similar statutes, though differing in some respects, exist in Massachusetts, California, Maine, Texas, Maryland and several other States. In Louisiana, where the civil law of Spain largely prevails, if a woman is deceived into marrying a man who has another wife living, and is ignorant of the impediment, she is entitled, while the deception lasts, to all the rights of a wife, and the children born during the period are legitimate.

Burge says that such a marriage, "though *null and void*, will have the effect of entitling the wife, if she be in good faith, to enforce the rights of property which would have been competent to her if the marriage had been valid, and of rendering the children legitimate." He says too, that this rule sprang from the canon law and not the civil; was unknown in England, Ireland and Holland, but was admitted into France, Spain and Germany, and was finally adopted by the civil code. It now seems to prevail in Scotland.

It is competent for the legislature of a State to pass a law forbidding certain persons to marry, and some States have laws forbidding those for whose fault divorces have been granted to remarry. A rule of the old Scotch law is that the guilty party divorced for adultery shall not marry the *particeps criminis*, or the one with whom the adultery was committed.

The question whether a remarriage in violation of a statu-

tory prohibition is valid, voidable or void is not definitely settled. It will depend, however, upon the express terms of the statute forbidding the remarriage.

*Presumption of Marriage.*—The presumptions of the law are always favorable to marriage. All reasonable interpretations of laws and decisions, of personal acts and words will be made in favor of the validity of a marriage. In Missouri, and perhaps in some other States, it has been held that where the parties hold themselves out as husband and wife and cohabit together as such, a marriage is to be presumed. And if parties capable of contracting mutually agree together to be husband and wife and cohabit and assume the relations of husband and wife, the marriage is valid without any ceremony. It is best to have witnesses to the assumption of the marriage relation. The statute of California makes consent, followed by mutual assumption of marital rights and duties, sufficient to constitute valid marriage.

*Interest of Third Parties.*—The decree of nullity does not affect third parties to so great an extent as it does the parties interested primarily.

Things executed, where the husband is seized in right of his wife, shall not be avoided by a sentence of nullity, as gift of goods to the wife, receipt of rent, etc., but in the case of an inheritance it is different.

If land is conveyed to husband and wife and the heirs of their two bodies, and afterward, the marriage, being voidable, is avoided by sentence, the inheritance is turned into a joint estate for life and the estate is converted into moieties.

If a lease is made to husband and wife during coverture and a decree of nullity is pronounced after the husband has sown the land, he is entitled to the emblements and not the lessor.

If a man is bound to a *feme sole*, and afterwards marry her,



and then they are divorced by decree of nullity, his obligation to her is revived.

If the husband sell his wife's lands in fee and then a decree of nullity is made of their marriage her estate in them is lost, the sale will stand, because innocent third parties are interested, but between the parties themselves the decree will destroy the husband's title to his wife's lands.

A man may be answerable for debts contracted by a woman whom he holds out to be his wife, though she is not such. If his marriage with the woman is voidable he will be liable for debts contracted by her before sentence of nullity, but not after.

If the marriage is absolutely void third persons are not always protected, especially if the first owner is an infant. An infant girl, in good faith, married a man who had a wife living, and her father, also ignorant of the impediment, gave her a slave. The pretended husband afterwards sold the slave with her consent, while she was yet in her minority and still ignorant of the deception practiced upon her. Held, that the gift invested the husband with no title, and further that the sale conveyed no title to the purchaser, as against her.

If a woman has been deceived by a man into a bigamous or other void marriage with him she may by bill in equity compel him to account to her for all rents and profits received by him upon her land during the supposed marriage, and return it to her with its proceeds. At law she can recover pay for her services during cohabitation. If he is dead she can enforce her claim against his estate.

*Rights and Duties.*—The duties imposed and rights conferred on the parties by marriage are entirely mutual.

The husband's first and principal duty is the support and maintenance of his wife according to his position, rank and fortune. Whatever his circumstances she is entitled to food,

clothing, shelter, medical attendance and nursing. She is entitled to the necessities of life and necessities vary according to their station and means.

Besides the above mentioned, they include a means of locomotion, furniture, protection, etc., such as the husband, considering his circumstances, ought to furnish for his wife for her sustenance, health and comfort.

Among the most important of the wife's rights is the irrevocable agency to pledge her husband's credit for whatsoever is necessary to her support unless he provides other means.

If the husband is an infant he is under the same obligation as an adult to support his wife.

The husband is the head of the family when they are in cohabitation, and he may take upon himself the providing for it and exclude his wife from all share in it. He may select the tradespeople that he will buy from and attend to all details, and as long as he does this the wife's agency will be in abeyance—she will not be justified in pledging her husband's credit for necessities when he is himself supplying them from some other source.

What is the rule then to guide shopkeepers and tradespeople in extending credit to a husband upon the wife's order? Justice Bayley says that "cohabitation is presumptive evidence of the assent of the husband" to being bound by the wife's contract for "necessaries" for herself and family, nothing more.

If a husband notifies a tradesman beforehand not to trust his wife he will not be liable, unless he fail to provide for her wants himself, then he would have to pay, notwithstanding his notice.

The husband is in honor bound to afford his wife such protection as he is able, defending her person against violence and her name against reproach.

*Love, Honor and Obey.*—By the marriage formula the wife about-to-be promises to love, honor and obey her husband. Love can not be considered in the light of a duty. Love does not flow from a sense of duty. Love is free. Love is unselfish. Love leaps with joy to the succor of its object while Duty creeps on crutches. But while love is not a duty it is an essential element to happiness in the marriage state. To insure the best results, the happiest fruition in ripe old age of the rosy dreams of youth it must be mutual. It has been said that true love never dies; that "love is love forevermore." But a one-sided, unrequited love grows weary and heart sick. Many years of burning without any returning sentiment to feed the consuming fire will dim the brightness of the flame and cool the amorous ardor, and mayhap some non-affiliating chemical in the laboratory of practical life will transform the noble sentiment into its antipodal hate.

Woman's nature requires love—it feeds and lives on love and if husbands would remember this and "waste a little time" each day in loving their wives they will find it the best investment they can make. It will bring grand returns in the form of a happy home, where wife, cheerful and happy, devotes herself wholly, in thought and act, to husband's happiness and welfare. Husbands, a kiss, a caress, a timely word of encouragement and commendation, brings magnificent returns. But let it come from the heart, true, unaffected. Then wife is yours, devoted, true; her every act directed by the thought, "Will this please him?" Each light-hearted, happy, devoted to a single thought, the other, rosy cheeked children come to bless and brighten this home where mutual love is sovereign king. Happy and sunny, these two in one, each devoted to, absorbed in the other, journey through life hand in hand as one, enjoying all life's true pleasures, dividing all its sorrows, and thus filling out to full, round completeness the measure of Divine purpose towards man.

Honor is another mutual duty. The wife should honor the husband, the husband should honor the wife. The greatest dishonor that either one can bring upon the other is to violate the marriage vow of fidelity. But this question of fidelity to the marriage vow is almost indissolubly connected with the first element, love. When love wanes the sense of honor grows weak.

It will avail nothing to lecture men and women upon the importance of keeping inviolate the marriage vow. Nine-tenths of all the marital woe flows from unfaithfulness. There is a sentiment in the mind of man that will not brook any dereliction of this kind on the part of his wife. With equal right and justice does the wife revolt when the husband departs from the line of chastity. Any sentiment in either that looks lightly on or condones adultery in the other is abnormal and shows a depraved mind. Husbands, do not thus dishonor your wives. Wives, do not by your infidelity bring dishonor and shame upon your husband and children.

The marriage form still contains the word "obey" for the wife's obligation, although the meaning and use of the term in modern marital relations is very different from what it was in olden times. Then the word was taken and applied in its literal sense. The husband commanded and the wife obeyed. His authority extended to the application of all necessary force to compel obedience. A husband could beat his wife and she had no redress. It is different now as all wife beaters soon learn. Still, technically, the husband is yet the master of the house; he is the head of the family and in the decision of questions where an agreement is impossible his dictum would be law. But in well-regulated families there is no such thing as commanding or obeying. Each conforms to the wish of the other, now one yielding a point, now the other. Love is again at the bottom, converting commands into requests and rendering obedience a pleasure.



*Object of Marriage.*—There are only two normal and natural objects of marriage: 1. Lawful sexual intercourse without encouraging licentiousness. 2. The propagation of the race, or the begetting of offspring. In some individual marriages there are other motives and objects, as the direction of an estate or the union of two estates. When other considerations than the two mentioned enter into a marriage they almost always relate in some way to property. These considerations or motives are unnatural and should not be allowed to govern against natural objections, such as want of love and respect, incompatibility of disposition, ill health and probability of begetting weak and sickly offspring. But if all the natural elements to produce a happy and fortunate marriage are present, the property considerations would fall into place as very desirable collateral inducements.

*Consummation of Marriage.*—The object of marriage, being as above stated it follows that sexual intercourse is one of the rights and duties of the married state. This is the consummation of marriage, although if man and wife live together in all respects as husband and wife except this one act the marriage will be considered consummated in law. The consummation of the marriage is not necessary to render it valid. If the wife refuse immediately upon marriage to perform the wifely duties and even leave her husband it will not invalidate the marriage, and the same is true of the husband. If, however, there is some malformation of the sexual organs, rendering either one physically incapable of performing the sexual function, this would be sufficient ground for divorce in most States.

#### DIVORCE.

Divorce is the act of the State by which a legally contracted marriage is dissolved. In our previous remarks considerable has been said upon the subject of invalid marriages, void and voidable marriages. We desire here to call attention to an

important distinction: If the marriage is void or voidable the decree so declaring is properly called a decree of nullity, although the term divorce is frequently improperly applied. When the marriage is valid and for reasons arising subsequently a legal separation takes place, the decree is called divorce.

There are two kinds of divorce: 1. *A vinculo matrimonii*. 2. *A mensa et thoro*. The first is absolute divorce from the bonds of matrimony and restores both to their former positions with privilege to remarry. The second is divorce from bed and board and is only partial, placing the parties under certain restrictions, the most important of which is that they are not allowed to marry again. This is not considered good policy in this country and very few States grant divorces *a mensa et thoro*.

Divorces are again classified according to the authorities by which they are granted into: 1. Legislative. 2. Judicial. A legislative divorce is one granted directly by act of the legislature, or by a court under direct instructions from the legislature. A judicial divorce is one granted by decree of court in accordance with general statutory provisions. Nearly all the divorces granted in this country are judicial.

The principal causes of divorces are adultery, cruelty, desertion, habitual drunkenness, gross neglect of duty, refusing to maintain being able, uniting with Shakers, conviction of crime, absence unheard from, and a few others. The States have all legislated on the subject except South Carolina, and the statutes of each State lay down the causes which shall be considered sufficient ground for divorce in that State when proved. Following is a condensation of the laws of all the States on the subject of divorce.

*Previous Residence Required*.—Dakota, ninety days; California, Indiana, Idaho, Nebraska, Nevada, New Mexico, Texas

and Wyoming, six months; Alabama, Arizona, Arkansas, Colorado, Illinois, Iowa, Kansas, Kentucky, Maine, Mississippi, Minnesota, Missouri, Montana, New Hampshire, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Vermont (both parties as husband and wife), West Virginia, Washington Territory and Wisconsin, one year; Florida, Maryland, Michigan, North Carolina and Tennessee, two years; Connecticut and Massachusetts (if, when married, both parties were residents; otherwise, five years), three years.

*Causes for Divorce.*—The violation of the marriage vow is cause for absolute divorce in all the States and Territories, excepting South Carolina, which has no divorce laws.

Physical inability is a cause in all the States except California, Connecticut, Dakota, Idaho, Iowa, Louisiana, New Mexico, New York, South Carolina, Texas and Vermont. In most of these States it renders marriage voidable.

Wilful desertion, six months, in Arizona.

Wilful desertion, one year, in Arkansas, California, Colorado, Dakota, Florida, Idaho, Kansas, Kentucky, Missouri, Montana, Nevada, Oregon, Utah, Wisconsin, Washington Territory and Wyoming.

Wilful desertion, two years, in Alabama, District of Columbia, Illinois, Indiana, Iowa, Michigan, Mississippi, Nebraska, Pennsylvania and Tennessee.

Wilful desertion, three years, in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, Ohio, Texas, Vermont and West Virginia.

Wilful desertion, five years, in Virginia and Rhode Island, though the court may in the latter State decree a divorce for a shorter period.

Habitual drunkenness, in all the States and Territories, except Maryland, New Jersey, New York, North Carolina, Penn-

sylvania, South Carolina, Texas, Vermont, Virginia and West Virginia.

"Imprisonment for felony" or "conviction of felony" in all the States and Territories (with limitations), except Florida, Maine, Maryland, New Jersey, New Mexico, New York and South Carolina.

"Cruel and abusive treatment," "intolerable cruelty," "extreme cruelty," "repeated cruelty," or "inhuman treatment," in all the States and Territories, except New Jersey, New York, North Carolina, South Carolina, Virginia and West Virginia.

Failure by the husband to provide, six months in Arizona; one year in California, Colorado, Dakota, Nevada and Wyoming; two years in Indiana and Idaho; no time specified in Idaho, Massachusetts, Michigan, Maine, Nebraska, New Mexico, Rhode Island, Vermont and Wisconsin; wilful neglect for three years, in Delaware.

Fraud and fraudulent contract in Arizona, Connecticut, Georgia, Idaho, Kansas, Kentucky, Ohio, Pennsylvania and Washington Territory.

Absence without being heard from, three years in New Hampshire; seven years in Connecticut and Vermont; separation, five years in Kentucky; voluntary separation, five years in Wisconsin and Kentucky. When reasonably presumed dead by the court, in Rhode Island.

"Ungovernable temper," in Kentucky; "habitual indulgence in violent and ungovernable temper," in Florida; "cruel treatment, outrages or excesses as to render their living together insupportable," in Arkansas, Kentucky, Louisiana, Missouri, Tennessee and Texas; "indignities as render life burdensome," in Missouri, Oregon, Pennsylvania, Tennessee, Washington Territory and Wyoming. Attempt to murder the other party, in Illinois and Tennessee.



Other causes in different States are as follows: "Husband notoriously immoral before marriage, unknown to wife," in West Virginia; "fugitive from justice," in Virginia; "gross misbehavior or wickedness," in Rhode Island; "any gross neglect of duty," in Kansas and Ohio; "attempt on life," in Illinois; "refusal of wife to remove into the State," in Tennessee; "mental incapacity at time of marriage," in Georgia; "three years with any religious society that believes the marriage relation unlawful," in Massachusetts; "joining any religious sect that believes marriage unlawful, and refusing to cohabit six months," in New Hampshire; "parties can not live in peace and union," in Utah; "settled aversion which tends to permanently destroy all peace and happiness," in Kentucky; "insanity for five years," in Wisconsin, and for ten years in Washington Territory; "vagrancy of the husband," in Missouri and Wyoming.

In Georgia an absolute divorce is granted only after the concurrent verdict of two juries at different terms of the court. In New York absolute divorce is granted for but one cause, adultery.

The granting of divorce for any cause is left to the discretion of the court in Washington Territory. The discretion of the court is also practically allowed by law in Wisconsin.

All of the causes above numerated are for absolute or full divorce, and collusion and connivance are especially barred, and also condonation of violation of the marriage vow.

*Remarriage.*—There are no restrictions upon remarriage by divorced persons in Arizona, Connecticut, Kentucky, Illinois and Minnesota. Either party may remarry, but defendant must wait two years and obtain permission from the court, in Massachusetts. The decree of the court may restrain the guilty party from remarrying in Virginia. Parties can not remarry, except by permission of the court, in Maine. In the

State of New York the plaintiff may remarry, but the defendant can not do so during the plaintiff's lifetime, unless the decree be modified or proof that five years have elapsed and that complainant has married again and defendant's conduct has been uniformly good. Any violation of this is punished as bigamy, even though the other party has been married. In Delaware, Pennsylvania and Tennessee, no wife or husband divorced for violation of the marriage vow can marry the *particeps criminis* during the life of the former husband or wife, nor in Louisiana at any time; such marriage in Louisiana renders the person divorced guilty of bigamy.

In Kansas a divorce will be granted to one party upon the ground that the other has obtained a divorce in another State, and the respondent has been forbidden to remarry. A party thus forbidden may go to Kansas and obtain a divorce also upon this ground but with privilege to remarry, and if service can be had upon the one who first obtained the divorce in another State, or that one can be brought under the jurisdiction of the Kansas courts, the divorce in Kansas must be recognized as valid in other States and the party can not now be punished for remarrying.

In New York desertion for five years, without knowledge that the deserter is living permits the one deserted to marry again; and if the deserter then return the second marriage will be valid, but it may be declared void, but only from the date of the decree, not *ab initio*. And proper petition must be made to a court of competent jurisdiction to have second marriage so declared, and if no such petition is ever filed, and all parties are satisfied, one husband may live in lawful wedlock with two or more wives or one wife with two or more husbands. The children will all be legitimate and inherit equally and both wives will be entitled to dower.

# MARRIAGE LAWS.

STATES AND TERRITORIES.	AGE OF CON- SENT.		PROHIBITED DEGREES.	VOID MARRIAGES.	VOIDABLE MAR- RIAGES.	LICENSES.		
	Male.	Fe- male.				If Re- quired ( <i>d</i> )	Age to entitle to ( <i>r</i> )	
							Male.	Fe- male.
Alabama . . . .	17	14	Ancestors, descendants, brothers, sisters, nephews, nieces. Same as Alabama, and also first cousins.	Prohibited degrees, or white with negro blood.	.....	Yes	21	18
Arizona . . . .	18	16		Prohibited degrees, biga- mous; White with negro or Mongolian.	.....	Yes	18 ( <i>f</i> )	16 ( <i>f</i> )
Arkansas . . . .	17	14	Same as Alabama, and also first cousins.	Prohibited degrees, biga- mous. Under age of con- sent, white with negro blood.	Under age of con- sent. Insane, physical inca- pacity, consent obtained by fraud or force.	Yes	21	18
California . . . .	18	15	Same as Alabama.	Prohibited degrees, biga- mous; White with negro blood.	Under age of con- sent, if no cohab- itation since at- taining such age, insane or idiot, physical inca- pacity.	Yes	21	18
Colorado . . . .	14 ( <i>a</i> )	12	Same as Alabama.	Same as California	.....	Yes	21	21
Connecticut . . . .	14 ( <i>a</i> )	12	Same as Alabama.	Prohibited degrees	.....	Yes	21	21
Dakota . . . . .	18	15	Same as Arizona.	Prohibited degrees and biga- mous.	Same as California	.....	21	21
Delaware . . . .	14 ( <i>a</i> )	12	Same as Alabama.	Same as California	Insane or idiot.	Yes	21	21
Dist. of Col'bia . . . .	14 ( <i>a</i> )	12	" Within the Levitical de- grees."	Bigamous, and white with negro blood.	.....	Yes	21	21
Florida . . . . .	14 ( <i>a</i> )	12	" Within the Levitical de- grees."	Prohibited degrees, biga- mous; Insane when mar- ried, physically incompe- tent, white with negro blood, force or fraud.	.....	Yes	21	21
Georgia . . . . .	17	14				Yes	21	21

# MARRIAGE LAWS.—CONTINUED.

STATES AND TERRITORIES.	AGE OF CON- SENT.		PROHIBITED DEGREES.	VOID MARRIAGES.	VOIDABLE MAR- RIAGES.	If Re- quired ( <i>cl</i> )	LICENSES.	
	Male.	Fe- male.					Age to entitle to ( )	Male. Fe- male.
<b>Idaho</b> .....	18	16	Same as Alabama.....	Same as California.....	Same as Arkansas, and bigamous.	.....	..	..
<b>Illinois</b> .....	17	14	Same as Arizona.....	Prohibited degrees, and in- sane when married.	.....	Yes	21	18
<b>Indiana</b> .....	18	16	Same as Alabama, and also first cousins.	Same as California, and also insane when married.	Under age of con- sent, and either insane or idiot.	Yes	21	18
<b>Iowa</b> .....	16	14	Same as Alabama.....	Same as Dakota.....	Same as Indiana..	Yes	..	..
<b>Kansas</b> .....	14 ( <i>a</i> )	12	Same as Alabama, and also first cousins.	Prohibited degrees.....	Same as Indiana..	Yes	..	..
<b>Kentucky</b> .....	14	12	Same as Alabama.....	Prohibited degrees, biga- mous; Under age of con- sent, insane when married, physically incompetent, white with negro blood.	Under age of con- sent, if no cohabi- tation since at- taining age, con- sent obtained by fraud or force.	Yes	21	21
<b>Louisiana</b> .....	14	12	Same as Alabama.....	Bigamous.....	Consent obtained by fraud or force, if no cohabita- tion before suit.	Yes	21	21
<b>Maine</b> .....	14 ( <i>a</i> )	12	Same as Alabama.....	Prohibited degrees, biga- mous; Insane when mar- ried, imprisonment for life.	.....	Yes	21	18
<b>Maryland</b> .....	14 ( <i>a</i> )	12 ( <i>c</i> )	Same as Alabama.....	Same as California	.....	Yes	21 ( <i>f</i> )	16 ( <i>f</i> )
<b>Massachusetts</b> .....	14 ( <i>a</i> )	12	Same as Alabama.....	Prohibited degrees, biga- mous; Under age of con- sent without cohabitation, insane when married.	.....	Yes	21	18
<b>Michigan</b> .....	18	16	Same as Alabama.....	Same as Massachusetts, and also imprisonment for life, and force or fraud.	Same as California	Yes	..	..



# MARRIAGE LAWS.—CONTINUED.

STATES AND TERRITORIES.	AGE OF CON- SENT.		PROHIBITED DEGREES.	VOID MARRIAGES.	VOIDABLE MAR- RIAGES.	LICENSES.		
	Male.	Fe- male.				If Re- quired (.)	Age to entitle to (.)	
							Male.	Fe- male.
Minnesota...	18	15	Same as Alabama.....	Prohibited degree, bigamous and under age of consent.	Under age of con- sent, if no cohabi- tation since at- taining such age, insane or idiot.	Yes	21	18
Mississippi	14 (a)	12	Same as Alabama.....	Same as California....	.....	Yes	21	18
Missouri.....	14 (a)	12	Same as Alabama.....	Same as California....	.....	Yes	21	18
Montana.....	21	18	Same as Alabama, and also first cousins.	Same as Dakota.	.....	.....	.....	..
Nebraska.....	18	16	Same as Alabama.....	Same as Indiana.....	Same as Minnesota	Yes	21	18
Nevada.....	18 (b)	16 (b)	Same as Alabama, and also first cousins.	Prohibited degrees, biga- mous; white with negro blood, Indian or Mongo- lian.	Same as Minnesota	Yes	..	..
New Hampshire.	14	12	Same as Alabama, and also first cousins.	Same as Dakota.	.....	Yes	..	..
New Jersey..	14 (a)	12	Same as Alabama.....	Bigamous and physically in- competent.	.....	.....	.....	..
New Mexico...	18	15	Same as Alabama.....	Prohibited degrees and un- der age of consent.	Under age of con- sent.	.....	.....	..
New York....	18	16	Ancestors, descendants, brothers and sisters.	Prohibited degrees, biga- mous, and imprisonment for life.	Same as California and under age of consent, but only when contracted without consent of parent.	.....	.....	..
North Carolina	16	14	Same as Alabama.....	Prohibited degrees, biga- mous; Under age of con- sent, insane when married, physically incompetent, white with negro or Indian, and negro with Indian.	.....	Yes	21	21

# MARRIAGE LAWS.—CONTINUED.

STATES AND TERRITORIES.	AGE OF CON- SENT.		PROHIBITED DEGREES.	VOID MARRIAGES.	VOIDABLE MAR- RIAGES.	LICENSES.		
	Male.	Fe- male.				If Re- quired ( <i>r</i> )	Age to entitle to ( <i>r</i> )	
							Male.	Fe- male.
Ohio.....	18	13	Same as Alabama, and also first cousins.	Same as Dakota.	.....	Yes	21	18
Oregon..	18	15	Same as Alabama.....	Bigamous; White with ne- gro or Mongolian.	Same as Minnesota	Yes	..	..
Pennsylvania..	14 ( <i>a</i> )	12	Same as Alabama.....	Same as Dakota.	.....	Yes	21	21
Rhode Island..	14 ( <i>a</i> )	12	Same as Alabama.....	Prohibited degrees, biga- mous, and insane when married.	.....	Yes	..	..
South Carolina	14 ( <i>a</i> )	12 ( <i>r</i> )	Same as Alabama.....	Bigamous; Insane when married, white with negro or Indian blood.	Consent obtained by fraud or force, if marriage not consummated.	.....	..	..
Tennessee.	14 ( <i>a</i> )	12	Same as Alabama.....	Bigamous; White with ne- gro blood.	.....	Yes	..	..
Texas. ....	16	14	Same as Alabama.....	Under age of consent, physi- cally incompetent, white with negro.	Physical incapac- ity.	Yes	21	18
Utah.	14 ( <i>a</i> )	12	.....	.....	.....	.....	..	..
Vermont.....	14 ( <i>a</i> )	12	Same as Alabama.....	Same as Dakota.....	Same as California	Yes	21	18
Virginia. ....	14	12	Same as Alabama.	Bigamous; Under age of con- sent without cohabitation, insane when married, physically incompetent, white with negro.	Prohibited degrees insane or idiot, physical incapa- city.	Yes	21	21
Washington Territory....	21	16	Same as Alabama, and also first cousins.	.....	Same as Minnesota	Yes	..	..

# MARRIAGE LAWS.—CONTINUED.

STATES AND TERRITORIES.	AGE OF CON- SENT.		PROHIBITED DEGREES.	VOID MARRIAGES.	VOIDABLE MAR- RIAGES.	LICENSES.		
	Male.	Fe- male.				If Re- quired ( <i>d</i> )	Age to entitle to ( <i>e</i> )	Fe- male.
West Virginia.	14	12	Same as Alabama.	.....	Prohibited degrees Under the age of consent, insane, physical incapaci- ty, white with negro, former spouse living. Same as Minnesota	Yes	21	21
Wisconsin.	18	15	Same as Alabama.	Prohibited degrees, biga- mous; Insane when mar- ried, imprisonment for life.				..
Wyoming.	18	16	Same as Alabama, and also first cousins.	Prohibited degrees, biga- mous; Insane when mar- ried, force or fraud.	Same as Indiana, and under age of consent, force, or fraud, if parties have not cohab- ited since	Yes	21	18

(*a*) As at common law; no statutory mention. (*b*) Consent of parents required. (*c*) Consent of parents required by females under sixteen. (*d*) A marriage without a license is nevertheless valid; the person solemnizing it is punished. (*e*) Without parental consent. (*f*) Unless parents consent to less, but not under age of consent.

# MISCELLANEOUS.

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## THE BROOKLYN BRIDGE.

THE great New York and Brooklyn Bridge is a suspension bridge, and the greatest structure of the kind in the world. It consists of three spans and two approaches. The bridge was suggested by Colonel Julius W. Adams, in 1855. The act of incorporation was passed in April, 1866. Work commenced January 2, 1870. First rope was thrown across the river August 14, 1876. Master Mechanic Farrington crossed in a boatswain's chair August 25, 1876. New York foundation is  $78\frac{1}{2}$  feet below high water mark, Brooklyn foundation, 45 feet. New York tower contains 46,945 cubic yards of masonry, Brooklyn 38,214. Size of towers at high water line,  $140 \times 59$  feet; at roof course  $136 \times 53$  feet. Height of towers above high water,  $276\frac{1}{2}$  feet. Height of roadway in the clear in the middle of East river, 135 feet; grade of roadway 3 feet, 3 inches to 100 feet. Width of bridge 85 feet; promenade through center 16 feet, 7 inches; railway at side of promenade 12 feet, 10 inches; carriage way on the other side 18 feet, 9 inches. Length of bridge including approaches,  $5,986\frac{1}{2}$  feet or  $3\frac{2}{5}$  miles; length of main span  $1,595\frac{1}{2}$  feet; each land span 930 feet; Brooklyn approach 971 feet; New York approach 1,560 feet. The superstructure is suspended on four great cables, each  $3,578\frac{1}{2}$  feet long and  $15\frac{3}{4}$  inches in diameter, and each containing 5,434 steel galvanized wires and weighing about 800 tons. Each cable will support 1,500 tons. There are 10,000 tons of steel in the sus-



pended superstructure. The bridge cost \$15,000,000, and was opened for traffic in 1883.

## THE WASHINGTON MONUMENT.

The corner stone was laid July 4, 1848, by President Polk. The cap stone was set in position December 6, 1884. There was a long period, about a quarter of a century, in which no work whatever was done. The foundations are  $126\frac{1}{2}$  feet square and 36 feet 8 inches deep. The base of the monument is 55 feet  $1\frac{1}{2}$  inches square. It is hollow, the walls being 15 feet  $\frac{1}{4}$  inch thick. At the 500 foot mark, where the pyramidal top begins, the shaft is 34 feet  $5\frac{1}{2}$  inches square and the walls are 18 inches thick. The monument is built of marble blocks 2 feet thick, over 18,000 in number being required. The height above ground is 555 feet. The pyramidal top terminates in an aluminum tip 9 inches high and weighing 100 ounces. The mean pressure of the monument is 5 tons per square foot, the entire weight, foundation and all, about 81,000 tons. The door at the base is 8 feet wide and 16 feet high and opens to a room 25 feet square. Sight seers are taken to the top of this wonderful structure by an elevator which is supported by an immense iron frame work. The elevator car is hoisted by steel ropes 2 inches in diameter. The top may also be reached by stairs of which there are fifty flights of 18 steps each. 520 feet from the ground there are 8 windows, 18 x 24 inches, two on each face. At the base of the pyramidal top, 500 feet up, the area of the top is  $1,187\frac{1}{2}$  square feet, enough to make six rooms 12 x 16 and enough space left for closets. The Washington Monument is the highest structure in the world. The Cologne Cathedral is 525 feet high; the pyramid of Cheops, 486; Strasburg Cathedral, 474; St. Peters, at Rome, 448. The cost of the Monument was about \$1,500,000.

## THE NORTH POLE.

The North Pole is the northern terminus of the axis of the earth's rotation. It is purely geographical and imaginary. The point has never been reached by man, although many efforts have been made to do so. The following are the most important.

YEAR.	EXPLORER.	LATITUDE REACHED.		
1607—	Hudson,	80°	23 min.	00.5 sec.
1773—	Phipps, (Lord Musgrove),	80°	48 min.	00.5 sec.
1806—	Scoresby,	81°	12 min.	42.5 sec.
1827—	Parry,	82°	45 min.	30.5 sec.
1874—	Meyer, (on land),	82°	09 min.	00.5 sec.
1875—	Markham, (Nare's exp'd),	83°	20 min.	26.5 sec.
1876—	Payer,	83°	07 min.	00.5 sec.
1884—	Lockwood, (Greely's party),	83°	24 min.	00.5 sec.

Mr. Lockwood, a member of the celebrated Greely expedition, reached within 6 deg. 36 min. or 455 miles of the pole. The region reached by Lockwood is covered with ice gorges and precipices of snow and ice of almost insurpassable difficulty. No instrument could measure the degree of cold; it blisters the skin upon touch like a red hot iron. Progress is necessarily extremely slow, five or six miles being a long day's journey. Then several days rest must be taken before another attempt is made to penetrate this forbidding wilderness of snow and ice.

## SEVEN WONDERS OF THE WORLD.

## PYRAMIDS OF EGYPT.

HANGING GARDENS OF BABYLON, including Tower Walls and Terrace.

STATUE OF JUPITER OLYMPUS, on the Capitoline Hill, at Rome.

TEMPLE OF DIANA, at Ephesus.

PHAROS, or the WATCH TOWER, at Alexandria, Egypt.

COLOSSUS OF RHODES, a statue 105 feet high, overthrown by an earthquake 224 B. C.

MAUSOLEUM AT HALICARNASSAS, a city in Asia Minor.

## LONDON.

Every school boy is taught that London, England, is the largest city in the world, but few have any idea of this wonderful collection of human beings. It covers 700 square miles and numbers over 5,000,000 people. They are not all Englishmen; two out of every five are foreigners from every part of the earth—2,000,000 foreigners. London has a birth every five minutes, 288 a day, 105,128 a year; has a death every eight minutes, 180 a day, 65,700 a year. Has 8,000 miles of streets and seven accidents a day upon them. She opens up 40 miles of new streets a year and builds 15,000 new houses.

London has a 1,000 ships and over 10,000 sailors in her ports every day; her beer and gin shops would, if placed side by side, extend a distance of 78 miles. Out of these shops come every year 38,000 drunkards before her magistrates. She has 15,000 cabmen, 15,000 police and 15,000 people connected with the post-office. Her people receive 300,000,000 letters every year. Every day 850 trains pass Clapham Junction and the under-ground railroad runs 1,211 trains a day. Her omnibus companys' 700 busses carry 56,000,000 passengers every year. It cost \$3,000,000 a year to light her streets. She has 400 daily and weekly newspapers. There is more danger in walking her streets than in crossing the Atlantic Ocean. In one year 130 persons were killed and 2,060 injured by vehicles in the streets. London, the greatest city in the world, has the most perfect drainage system and is a very healthy city, her death rate being very low. She is 3,009 years old, having

been founded by Brute, the Trojan, in the year of the world 2832.

#### SALARY OF THE PRESIDENT.

Since Grant's last term the President of the United States has received a salary of \$50,000 per annum. Previous to that time it was \$25,000. In addition to the \$50,000 salary he receives \$36,064 for subordinates and clerks. His private secretary receives \$3,250; an assistant private secretary \$2,250; a stenographer \$1,800; five messengers, each \$1,200; a steward \$1,800; two doorkeepers, each \$1,200; two ushers, one \$1,400, the other \$1,200; a night usher \$1,200; a watchman \$900; a man who takes care of the fires \$864. Then he gets \$8,000 for incidental expenses, such as stationery, carpets, care of the presidential stables, etc. He gets \$12,500 for repairing and refurnishing the White House; \$4,000 for the green house; \$2,500 for fuel; \$15,000 for gas, matches and the stable. The President and White House cost the country, all told, over \$125,000 a year.

#### COST OF ROYALTY.

While the above figures seem large for the expense of our Chief Magistrate, they are in reality very small compared with the cost of the royal families of Europe to their governments. Her Majesty, Queen Victoria's privy purse or salary is £60,000 or \$300,000. Salaries and expenses of household, Royal bounty, etc., added to this give a total of £385,800 or \$1,929,000 for Her Majesty alone. Then there are 13 princes, princesses, dukes and duchesses that draw handsome salaries and do nothing, running the grand aggregate up to £566,800 or \$2,834,000, making the salary and expenses of our President who does more work in a month than the whole royal family do in a lifetime, appear very insignificant.



## UNITED STATES CUSTOM REGULATIONS AS TO BAGGAGE.

All persons entering any of the ports of the United States from a foreign country are subjected to an examination of their baggage. On all dutiable articles a duty must be paid according to the schedule fixed by Congress. The following articles are free from duty: Wearing apparel and other personal effects (not merchandise), professional books, implements, instruments and tools of trade, occupation or employment.

The owner of articles brought into the United States, or his agent, shall make an entry of all articles of wearing apparel and other personal baggage, and professional books, implements and instruments of trade, the same as of other merchandise, but separate and distinct from the entry of any other merchandise imported from a foreign port. This entry shall be made with the Collector of the district in which the articles are intended to be landed. It must state the person by whom or for whom such entry is made and must particularize the several packages and their contents, with their marks and numbers. And the person making the entry must take and subscribe an oath before the Collector, declaring that the entry subscribed by him and to which his oath is annexed, contains, to the best of his knowledge and belief, a just and true account of the contents of the several packages mentioned, specifying the name of the vessel, the name of her master and the port from which she has arrived; and stating that the said packages contain no merchandise whatever, other than wearing apparel, personal baggage, or as the case may be, tools of trade, specifying it; that they are all the property of a person named who has arrived, or is about to arrive, in the United States, and are not, directly or indirectly, imported for any other, or intended for sale.

If any article is found in any of the packages or baggage which is subject to duty and which was not mentioned in the

entry made to the Collector by the person making the entry, such article shall be forfeited to the Government, and the person in whose baggage it is found shall be liable to a penalty of treble the value of the article found.

"Professional books, implements and tools of trade, occupation or employment," embrace such books or instruments as would naturally belong to a surgeon, physician, engineer or other scientific person returning to this country. The real rule of determining whether an article is free or not is whether it is intended for personal use or for sale.

Jewelry that has been in use as a personal ornament and is expected to be worn again by the person, being only temporarily laid aside, may be admitted free.

A single passenger can only bring in one watch free. If he have several watches, all old, he may select one to be considered his personal effects; if some are new and some old, all the new are dutiable—he may select an old one for his own.

Following is the decision of the United States Supreme Court: The free list includes (1), wearing apparel owned by the passenger and in a condition to be worn at once without further manufacture; (2), brought with him as a passenger and intended for the use or wear of himself or his family who accompanied him as passengers, and not for sale or purchased or imported for other persons, or to be given away; (3), suitable for the season of the year which was immediately approaching at the time of his arrival; (4), not exceeding in quantity, or quality, or value what the passenger was in the habit of ordinarily providing for himself and his family at that time, and keeping on hand for his and their reasonable wants, in view of their means and habits of life, even though such articles had not been actually worn.

#### STANDARD TIME.

Since November 18, 1883, all the railroads of the United

States have been run on "Standard Time." Previous to that there were fifty-eight kinds of time in use by the railroads of the country, resulting in endless confusion and rendering it impossible for travelers to calculate the arrival and departure of trains. A conference of the railroad men of the country resulted in the establishment of "Standard Time," which has only four variations, the difference in each case being exactly one hour. This system of time for the railroads was established by dividing the country into four sections, each fifteen degrees of Longitude wide from East to West. Every school boy knows that the sun passes over fifteen degrees of Longitude in one hour, hence it is that the change from one time to another is always exactly one hour.

## EASTERN TIME.

The time of the first section on the East is called "Eastern Time." It is the time of the 75th Meridian from Greenwich, which runs a few miles east of Philadelphia. The time of the entire section is the same as the time of the Meridian through the center. For  $7\frac{1}{2}$  degrees east and  $7\frac{1}{2}$  degrees west of the 75th Meridian all trains run on the time of the 75th Meridian, which is called Eastern Time. This section extends from the eastern part of Maine to near Detroit, Michigan. The principal cities in this section are Boston, Albany, New York, Syracuse, Rochester, Buffalo, Philadelphia, Washington and many others. The western boundary of the Eastern section is the Meridian  $82\frac{1}{2}$  degrees west from Greenwich, this being  $7\frac{1}{2}$  degrees west from the 75th Meridian. A train running West when it crosses this Meridian passes at once into

## CENTRAL TIME.

This is the time of the 90th Meridian and is exactly one hour behind Eastern time. In other words, if an engineer's watch shows 11 o'clock just before he passes from Eastern

into Central time he will know after he crosses the line that it is only 10 o'clock in that section and run to make all his connections accordingly. This section commences near Detroit, Michigan, and extends 15 degrees West to the vicinity of Yankton, Dakota, and Austin, Texas. Cleveland, Cincinnati, Columbus, Chicago, St. Louis, Kansas City, Omaha and all places in this section have the same time for railroad purposes.

#### MOUNTAIN TIME.

This is the time of the 105th Meridian, which passes near Denver, Colorado. It is one hour slower than Central time and extends from Yankton and Austin to near Salt Lake City. For railroad purposes the time of all places in this section is the same.

#### WESTERN TIME.

This is the time of the 120th Meridian and begins  $7\frac{1}{2}$  degrees east of that Meridian or  $112\frac{1}{2}$  degrees west of Greenwich. It is one hour slower than Mountain time. The time for railroad purposes in all places in this section, Walla Walla, Los Angeles, San Francisco, Sacramento, Portland, etc., is the same.

#### LOCAL TIME.

Every city which is not located on one of the four Meridians above named, 75, 90, 105 or 120, has its own local time which differs from the Standard or Railroad time according to its distance from the central Meridian of the section. Cincinnati time is 22 minutes faster than Central Standard time, because Cincinnati is about  $5\frac{1}{2}$  degrees east of the 90th Meridian. Philadelphia time is only 38 seconds slower than Eastern Standard time, because Philadelphia is only a few miles west of the 75th Meridian.



## POINTS OF LAW.

Ignorance of law excuses no one.

It is a fraud to conceal a fraud.

The law does not compel any one to do impossibilities.

A contract without consideration can not be enforced.

Signatures made with lead pencil are binding.

A contract made with a minor is voidable by the minor.

A note given by a minor is voidable.

A contract made with a lunatic is void.

A contract or note obtained by fraud, or from a person in a state of intoxication, can not be enforced.

The acts of one partner of a firm bind all the others.

Each individual in a partnership is liable for the whole amount of the debts of the firm.

Principals are responsible for the acts of their agents.

Agents are liable to their principals for errors or the results of their mistakes.

The loss of a note by accident or theft does not release the maker; he must pay. But it may be necessary for the holder to prove the amount and consideration.

Notice of protest to an endorser of a note must be served within twenty-four hours of its non-payment, otherwise he is exempt from liability.

A receipt for money paid is not legally conclusive. It may be allowed to prove that the money was not paid

## LAW OF FINDING.

The one who finds anything has a clear title to it against the whole world except the owner. This is true whether the thing is found on the premises of the finder or of some one else. An inn keeper has no right to demand property found on his premises by a guest or other person. Neither has a shop or store keeper. This law is a century old. It was settled in King's Bench under these facts:

A person found a wallet on a shop floor. He handed it and the money it contained to the shop keeper to restore to the owner. Three years passed and no owner appeared to claim the property. The finder then demanded the wallet and money. The shop keeper refused on the ground that they were found on his premises. The finder sued and the decision of the court was as stated above, that the title of the finder is perfect against all the world except the owner.

The finder has been held to stand in the place of the owner, in this way: if a person find an article and lose it again and a third person find it the first finder may recover it from the second.

The police have no more rights in property found than any one else unless a special statute may confer such rights.

Receivers of articles found are trustees for the *owner* or *finder*. They can not hold an article against the finder any more than the finder can hold it against the owner.

#### RARE U. S. COINS AND THEIR VALUE.

**SILVER DOLLARS.**—Rarest dates are: 1794, worth \$35; 1798, with small eagle, \$2; 1799, with five stars facing, \$2; 1804, worth \$8; 1836, \$5; 1838, \$25; 1839, \$15; 1851, \$20; 1852, \$25; 1854, \$6; 1855, \$5; 1856, \$2; 1858, \$20.

**SILVER HALF DOLLARS.**—The rarest are: 1794, valued at \$5; 1796, \$40; 1797, \$30; 1801, \$2; 1802, \$2; 1815, \$4; 1836, reeded, \$3; 1838, Orleans, \$5; 1852, \$3; 1853, no arrows, \$15.

**SILVER QUARTER DOLLARS.**—The rarest are: 1796, valued at \$3; 1804, \$3; 1823, \$50; 1853, no arrows, \$4.

**SILVER TWENTY CENT PIECES.**—The rarest are: 1874 proof, valued at \$10; 1877 proof, \$2; 1878 proof, \$2.

**SILVER DIMES.**—The rarest are: 1796, valued at \$3; 1797, 16 stars, \$4; 1797, 13 stars, \$4.50; 1798, \$2; 1800, \$4; 1801, 1802 and 1803 each valued at \$3; 1804, \$5; 1805 to 1810, inclusive, each 50 cts.; 1811, 75 cts.; 1822, \$3; 1846, \$1.

**SILVER HALF DIMES.**—The rarest are: 1794, valued at \$3; 1795, 75 cts.; 1796 and 1797, \$2 each; 1800, 75 cts.; 1801, \$1.50; 1802, \$50; 1803, \$1.50; 1805, \$3; 1846, \$1.

**SILVER THREE CENT PIECES.**—The rarest are: 1851 to 1854 inclusive, 15 cts. each; 1855, 25 cts.; 1856 to 1861, inclusive, 15 cts. each; 1863 to 1872, inclusive, 50 cts. each.

**ONE CENT PIECES.**—The rarest are: 1793, with wreath, valued at \$2.50; 1793, with chain, \$3.50; 1793, with liberty cap, \$4; 1799, \$25; 1804, \$200; 1809, \$1.

**HALF CENT PIECES.**—The rarest are: 1793, valued at \$1; 1796, \$10; 1831, 1836, 1840 to 1849 and 1852, \$4.

#### APOSTOLIC BULL.

A Bull is an official letter from the Pope of Rome, written on parchment, in the Latin language and having attached to it a leaden seal impressed with the images of Saint Peter and Saint Paul. It is the form of apostolic rescript generally used in legal matters. There are two other kinds of papal edicts known as the Brief and the Signature. When the Bull grants a favor the leaden seal is attached by means of silken cords: when it directs an execution to be performed, with flax cords.

#### LEGAL HOLIDAYS.

*New Year's Day.*—Jan. 1.—In all States and Territories except Arkansas, Delaware, Georgia, Kentucky, Maine, Massachusetts, New Hampshire, North Carolina, South Carolina and Rhode Island.

*Anniversary of the Battle of New Orleans.*—Jan. 8.—In Louisiana.

*Lincoln's Birthday.*—Feb. 12.—In Louisiana.

*Washington's Birthday.*—Feb. 22.—In all States and Territories except Alabama, Arkansas, Florida, Illinois, Iowa, Indiana, Kansas, Maine, Missouri, North Carolina, Ohio, Texas, Oregon and Tennessee.

*Shrove Tuesday*.—March 1.—In Louisiana and cities of Mobile, Montgomery and Selma, Ala.

*Anniversary of Texan Independence*.—March 2.—In Texas.

*Firemen's Anniversary*.—March 4.—in Louisiana.

*Good Friday*.—April 15.—In Florida, Louisiana, Minnesota and Pennsylvania.

*Memorial Day*.—April 26.—In Georgia.

*Battle of San Jacinto*.—April 21.—In Texas.

*Decoration Day*.—May 30.—In Colorado, Maine, Vermont, Connecticut, Michigan, New Hampshire, New Jersey, Rhode Island, New York, Pennsylvania and District of Columbia.

*Fourth of July*.—In all States and Territories.

*General Election Day*.—Generally on Tuesday after the first Monday in November is a legal holiday in California, Maine, Missouri, New Jersey, New York, Oregon, South Carolina and Wisconsin.

*Thanksgiving Day*.—Usually last Thursday in November and Fast days whenever appointed by the President are legal holidays in all the States and Territories.

*Christmas Day*.—Dec. 25.—In all States and Territories.

#### VALUE OF FOREIGN MONEY IN GOLD.

Pound Sterling,	.	.	England,	.	.	.	\$4.84
Guinea,	.	.	"	.	.	.	5.05
Crown,	.	.	"	.	.	.	1.21
Shilling,	.	.	"	.	.	.	.22
Napoleon,	.	.	France,	.	.	.	3.84
Five Francs,	.	.	"	.	.	.	.93
Franc,	.	.	"	.	.	.	.18
Thaler,	.	.	Saxony,	.	.	.	.68
Guilder,	.	.	Netherlands,	.	.	.	.40
Ducat,	.	.	Austria,	.	.	.	2.28
Florin,	.	.	"	.	.	.	.48



Doubloon, . . . .	Spain, . . . .	\$15.54
Real, . . . .	" . . . .	.05
Five Rubles, . . . .	Russia, . . . .	3.95
Ruble, . . . .	" . . . .	.75
Franc, . . . .	Belgium, . . . .	.18
Ducat, . . . .	Bavaria, . . . .	2.27
Franc, . . . .	Switzerland, . . . .	.18
Crown, . . . .	Tuscany, . . . .	1.05
Ten Thalers, . . . .	Germany, . . . .	7.90
Ten Mark, . . . .	" . . . .	2.38
Krone, (crown), . . . .	" . . . .	6.64
Twenty Lire, . . . .	Italy, . . . .	3.84

WEATHER SIGNAL FLAGS OF THE UNITED STATES.

There are four flags used by the United States Government at Weather Signal Stations to signal the approaching state of the weather.

No. 1.

No. 2.

No. 3.

No. 4.

White Flag.

Blue Flag.

Black Triangular Flag. White Flag with black square in center.



Clear or Fair Weather.

Rain or Snow.

Temperature Signal.

Cold Wave.

No. 1 is a plain white flag, 6 ft. square, indicating clear or fair weather. No. 2 is a plain blue flag, 6 ft. square, indicating rain or snow. No. 3 is a black triangular flag, 4 ft. at base and 6 ft. long, for temperature. No. 4 is a white flag, 6 ft. square, with a black square center, called the cold wave flag. It indicates the approach of a sudden and considerable fall in temperature and is usually ordered out twenty-four hours or more in advance of the cold wave. It is not displayed unless a temperature of 45 degrees or lower is expected. Nos. 3 and

4 are never put out together. No. 3 is always displayed with either No. 1 or No. 2 or sometimes with both. The flags generally are attached to perpendicular poles and then are to be read downward from the top. When No. 3 is placed over 1 or 2 it indicates warmer weather; when below it, it indicates cooler weather. When No. 3 is not displayed the indications are that the temperature will remain unchanged.

#### DISPLAYS INTERPRETED.

No. 1, alone, fair weather, stationary temperature.

No. 2, alone, rain or snow, stationary temperature.

No. 3 above No. 1, fair weather, warmer.

No. 3 above No. 2, rain or snow, warmer.

No. 3 below No. 1, fair weather, colder.

No. 3 below No. 2, rain or snow, colder.

No. 4 below No. 1, fair weather, cold wave.

No. 3 on top, followed by 1 and 2 in order, warmer, fair weather, followed by rain or snow.

#### THE GUILLOTINE.

Executions of condemned criminals were performed in olden time by cutting the head off with a sword or an axe. The victim's head was generally placed upon a large block of wood and severed from the body by a blow of the axe in the hands of the official headsman. In 1789 Guillotin, a French physician, proposed to the Constituent Assembly to abolish the usual brutal mode of execution and use machinery, although he did not invent the machine. In 1792 Dr. Antoine Louis invented the machine which beheads a person by a single fall of a cutter or blade which is raised to position by a cord and let fall upon the neck of the victim who has been fastened in position. The machine was at first called *Louison* or *Louissette*, after its inventor, but a satirical song published in a royalist

newspayer of the day used the word Guillotine and this soon superseded the others.

## SHORT RULES FOR INTEREST.

First, express the entire time in days.

Second, multiply the principal by the number of days.

Third, divide this product according to the rate as follows:

For 3 per cent. by 120.

For 4 per cent. by 90.

For 5 per cent. by 72.

For 6 per cent. by 60.

For 7 per cent. by  $51\frac{3}{4}$ .

For 8 per cent. by 45.

For 9 per cent. by 40.

For 10 per cent. by 36.

For 12 per cent. by 30.

As the divisor is fractional in the case of 7 per cent. it is simpler to find the rate at 6 per cent. and increase it by one-sixth of itself.

*Reason of the Rule.*—The interest of any sum at one per cent. can be obtained for any number of days by multiplying that sum by the days and dividing by 360, pointing off two decimal places for the one per cent. This analysis of the operation would be different but would bring the same result. Take an example: Interest on \$20 for 96 days at 1%. One per cent. of \$20 for one year (360 days) is 20 cents; for one day it is  $\frac{1}{360}$  of 20 cents or  $\frac{1}{18}$  cent; for 96 days it is 96 times as much as for one day or  $\frac{96}{18} = 5\frac{1}{3}$  cents. Now, since the figures are not changed by multiplying by 1 per cent., omit that operation. Then as the result is the same whether you multiply by the number of days last or first, perform this multiplication first, dividing by 360 afterwards. This gives the same result, but if the rate were always one it would not matter which op-

eration were performed first. Now, the interest at 6 per cent. is six times as much as at 1 per cent. But instead of multiplying your result by six take a short cut before you get the result and divide your product of dollars and days by 60, instead of 360, because you know that dividing the divisor has the same effect upon the quotient as multiplying the dividend by the same number, and 60 is obtained by dividing 360 by 6, the rate. And observe that all those divisors above are obtained by dividing 360 by the rate per cent. required, and in this way you can remember the rule.

So that the rule might be condensed for any rate as follows: Multiply the principal by the time in days. Divide this by the number obtained by dividing 360 by the required rate, and point off two decimal places in the quotient more than are already there.

#### MASON AND DIXON'S LINE.

This celebrated line is the southern boundary of Pennsylvania, separating it from the States of Maryland and Virginia. It was run, with the exception of about twenty-two miles, by Charles Mason and Jeremiah Dixon, two English surveyors, between Nov. 15, 1763, and December 26, 1767, and separated at that time slave and free territory. John Randolph, of Virginia, was the first to give the line prominence, using the expression frequently in the heated debates that arose in Congress on the question of excluding slavery from Missouri. The newspapers of the country caught up the phrase and it gained a celebrity which it still retains, though now, since the abolition of slavery, only a historical reminiscence.

#### THE PRESIDENT—HOW HE IS CHOSEN.

The people do not vote directly for President and Vice-President in an election for those officers in the United States. They cast their ballots for certain men, called electors, previously selected at a convention of each party, who at the proper



time cast their vote for President and Vice-President. This body of Electors is called the Electoral College. Each party has an electoral ticket in each State—as many electors as the State has members in Congress, Senators and Representatives combined. The names of the electors are printed on each party's ticket. The names of the candidates for President and Vice-President of each party generally stand at the head of the electoral ticket. The candidate of each party for President and Vice-President is selected at a general convention of the party usually four or five months prior to the election. Although the names of the men desired for President and Vice-President stand at the head of the electoral ticket, the people do not in reality vote for them but for the electors whose names follow. The electoral ticket in each State, which receives the highest number of votes of the people, is the one chosen and they are entitled to cast their votes for the candidate of the party. This popular election takes place on the Tuesday after the second Monday in November every fourth year. The year 1888 was a presidential election year.

As soon as it is finally and definitely ascertained, according to the laws in each State for such ascertainment, who are chosen electors, the executive officer of the State shall communicate, under seal of the State, to the Secretary of State of the United States, a certificate of such ascertainment of the electors appointed, stating names of electors and number of votes each received. The executive shall also deliver to the electors of his State on or before the second Monday in January the same certificate in triplicate, under the seal of the State. And the electors shall enclose and transmit these certificates to the seat of government in the same way and at the same time as is provided for transmitting by them to the seat of government of the lists of all persons voted for by them as President and Vice-President.

The electors who are chosen will meet in each State at the Capitol on the second Monday in January following the popular election and cast their ballots for President and Vice-President. As a matter of law there is nothing to prevent these electors from casting their ballots for whom they please, but as a matter of custom and public trust they always cast their ballots for the previously selected candidates of their party. It is impossible to tell what a breach of faith on the part of an elector would bring about, especially if it changed the result and elected the opposing candidate. The wrath of the outraged people would be terrible and might result in civil war if an adjustment were not speedily made.

When the ballots of the electors have been cast certificates of the vote are made out in triplicate. One copy is sent to the President of the Senate at Washington by mail. A second copy is sent him by special messenger. A third copy is preserved and filed with the State archives. The copy sent to Washington by special messenger is the one used by Congress in counting the vote unless it should be lost, when the other is used. On the second Wednesday in February the Senate and House of Representatives shall meet at one o'clock in the afternoon in the hall of the House of Representatives in joint session, for the purpose of counting the electoral vote. The President of the Senate is the presiding officer. Two tellers are appointed previously by the Senate and two by the House.

The President of the Senate opens the returns from the States in alphabetical order, beginning with the letter A, and as each one is opened hands it to the tellers, who read it in the hearing of the two Houses and make a list of the votes as they shall appear from the certificates. When the votes have been thus ascertained and counted, the result of the same is delivered to the President of the Senate "who shall thereupon announce the state of the vote, which announcement shall be

deemed a sufficient declaration of the persons, if any, elected President and Vice-President of the United States." The result with a list of the votes is entered upon the Journal of the two Houses.

If it appears upon the counting of the electoral votes that no candidate has a majority of all the votes cast, which must now be at least 201, as there are 401 votes in the Electoral College, then the election goes into the House of Representatives and they must select a President from the persons (not exceeding three) who have received the most electoral votes for President. If the election of President is thrown into the House, the vote there is by States, each State having one vote. So that the dominant party in the House is not sure of electing their candidate; the party will succeed that controls a majority of the State delegations.

When the two bodies are assembled to count the vote, the President of the Senate occupies the Speaker's chair; the Speaker of the House sits at his left hand; the Senators in a body upon the right of the presiding officer; the members of the House in the body of the Hall not provided for Senators; the tellers, Secretary of the Senate and Clerk of the House of Representatives at the Clerk's desk; the other officers of the two Houses in front of the Clerk's desk.

The joint meeting to count the vote shall not be dissolved until the count of electoral votes shall be completed and declared.

#### THE UNITED STATES CONGRESS.

Congress is the law making body of the United States. Congress is composed of two branches, sometimes called the Upper and Lower Houses, but properly the Senate and House of Representatives.

*The Senate.*—The Senate or Upper House is composed of two members from each State in the Union. It has contained

for a number of years, therefore, 76 members, and will now contain, as soon as the four new States send their Senators, 84 members. A Senator's term of office is six years. The members are arranged into three classes, so that the terms of one-third of the Senators expire every two years. These classes were arranged at the original organization of the Senate and the class into which any Senator fell was determined by lot. Some of the first Senators had two year terms, some four year terms and some six year terms, but all their successors were elected for six years. When a new State is admitted her Senators take their places in the next classes in which there is a vacancy, deciding the long and short term between them by lot. The Vice-President of the United States is the presiding officer of the Senate. He is called the President of the Senate and is addressed "Mr. President." The Senate usually elects a President *pro tempore*, who acts as President in the absence of the Vice-President of the United States. The Senators are elected by the States which they represent. They are elected usually by the State Legislature, although each State may provide its own method of selecting them within certain limits. The salary of a Senator is \$5,000 a year. The salary of the Vice-President of the United States and of the President *pro tem.* of the Senate is \$8,000 a year.

*House of Representatives.*—The membership of the House of Representatives depends upon the population of the country. Once every ten years a census is taken and as soon as the exact number of people in the whole country is definitely ascertained Congress fixes a ratio of Representation. This ratio will determine the number of Representatives to which each State is entitled. The ratio now is 133,000, that is, each State is entitled to one Representative for every 133,000 of population. This ratio has been gradually increased since the organization of the government. Every decade it has been found



necessary to increase the ratio of representation, else the House of Representatives would become so large and unwieldy a body that the business of the government would be obstructed by it rather than facilitated. As soon as it is determined how many Representatives each State is entitled to, then the State is divided into a corresponding number of districts, called Congressional districts. This dividing into districts is done by the State Legislature. Members of the House of Representatives are then elected in these districts, one in each district, by popular vote, for a term of two years. It is not necessary for a member of the House to reside in the district from which he is elected, although it is customary for him to do so. He must be a resident of the State.

The House of Representatives elects its own presiding officer. He is called the Speaker and is addressed "Mr. Speaker." His salary is \$8,000 a year. The salary of a member of the House of Representatives is \$5,000 a year. Senators and Representatives are allowed \$125 a year for stationary and 20 cents per mile for travel to and from Washington, each annual session.

*Law Making.*—Laws may originate either in the Senate or House of Representatives, except measures for the appropriation of money which must originate in the House of Representatives. The practical work of Congress is largely done by committees. When a measure is introduced it is called a bill. If it originates in the House of Representatives it is called "House Bill," which in writing is generally abbreviated to "H. B." If it originates in the Senate it is called "Senate Bill," written "S. B." Each bill is also numbered and given a title which conveys briefly some import of the scope and intent of the bill. There are a great many standing committees for different kinds of work and when a bill is introduced it is always referred to one of these committees—the one in whose

field of labor it most naturally falls. The committee, after examining the bill and considering the subject in all its bearings, reports back to the House or Senate, as the case may be, with recommendations. Many bills get into the hands of a hostile committee and never see daylight again; they are "pigeon-holed" in the committee room, which means that the committee or the Chairman of the committee who has very large powers in these matters, is not friendly to the measure and will not make any report on it. This practically kills the bill in its infancy.

*How a Bill becomes Law.*—A bill that has been voted upon in either branch of Congress and received a majority of votes is then signed by the presiding officer and sent to the other branch. Here it goes to a committee the same as when it was first introduced in the other branch. If it comes to a vote in the second branch and receives a majority of the votes it is signed by the presiding officer of that body and sent to the President of the United States. If the President signs it the bill has become a law. If the President keeps it in his possession for ten days, not counting Sundays, and does not sign it, the bill becomes a law. If the President returns it to Congress without his signature and accompanied by his objections to the measure, called his veto, then it is again put to vote in Congress and if it receives three-fourths of all the votes cast in each branch it is a law without the President's signature. A bill has a hard road to travel to become a law, but still there are some laws passed. Perhaps not one bill in fifty becomes a law.

The chances of the death of a bill are very great. It must first run the gauntlet of the committee rooms where it is in danger of being strangled to death. If it fails of a majority in either house it is dead. If the President veto it and it fail of a three-fourth majority in either House it is dead.

## THE UNITED STATES SUPREME COURT.

The Supreme Court of the United States is composed of one Chief Justice and eight Associate Justices. They are appointed by the President and confirmed by the Senate. The term is for life or during good behavior. The Court at present is composed as follows:

		BORN.	WHEN APPOINTED.
Chief Justice,	Melville W. Fuller, Ill.		1888
Assoc. "	Samuel F. Miller, Ia.	1816	1862
" "	Stephen J. Field, Cal.	1816	1863
" "	Joseph P. Bradley, N. J.	1813	1870
" "	John M. Harlan, Ky.	1833	1877
" "	Stanley Mathews, O.	1824	1881
" "	Horace Gray, Mass.	1828	1881
" "	Samuel Blatchford, N. Y.	1820	1882
" "	L. Q. C. Lamar, Miss.	1825	1887

The Court Reporter is J. C. Bancroft Davis, of New York. The Clerk is J. H. McKenney, D. C. The salary of the Chief Justice is \$10,500; of each Associate Justice \$10,000; of the Reporter \$5,700; of the Clerk \$6,000.

Justice Mathews died March 22, 1889, and his successor has not yet been appointed.

## APPOINTMENTS TO WEST POINT AND NAVAL ACADEMIES.

The cadets at West Point Military Academy are appointed by the President of the United States upon the recommendation of Representatives in Congress. One cadet is allowed for each congressional district, one for each Territory and ten for the United States at large. Each one must reside in the District or Territory from which he is appointed. They must be not under seventeen and not over twenty-two years of age, physically perfect, and well versed in reading, writing and arithmetic, know something of English grammar, descriptive

geography and United States history. One class graduates every year, and there is an annual appointment, and not oftener, except in case of vacancy through death, resignation or expulsion.

The Naval Academy has the same number of cadets appointed in the same way, from persons between the ages of fourteen and eighteen years. The physical and educational requirements are about the same.

#### NATURALIZATION LAWS OF THE UNITED STATES.

The law providing for the naturalization of foreigners or aliens as citizens of the United States and providing the conditions under which this may be done, will be found in the Revised Statutes of the United States, Sections 2165 to 2174. Following is a brief resume of the law:

*Declaration of Intention.*—An alien who desires to become a citizen of the United States, must declare upon oath, before a Circuit or District Court of the United States, or a District or Supreme Court of the Territories, or a Court of Record of any of the States having common law jurisdiction, and a seal and clerk, two years at least prior to his admission to citizenship that it is, *bona fide*, his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince or State, and particularly to the one of which he may be at the time a citizen or subject. It is not necessary to make this declaration of intention until the expiration of three years' residence in the United States, although it may be done at any time.

*Conditions of Citizenship.*—If it shall appear to the satisfaction of the court to which the alien applies for admission that he has resided continuously within the United States for at least five years, and within the State or Territory where such court is at the time held, one year at least; and that dur-



ing that time "he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same," he will be admitted to citizenship.

*The Final Oath.*—When the application for admission is made, the alien must declare upon oath before some one of the courts above specified "that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, State or sovereignty of which he was before a citizen or subject," which proceedings must be recorded by the clerk of the court.

*Titles of Nobility.*—If the applicant has borne any hereditary title or order of nobility he must expressly renounce it when he makes his application for citizenship in the United States.

*Children of Naturalized Citizens.*—All the children of naturalized parents who were under twenty-one years of age when their parents received their naturalization papers, are considered citizens without the process of naturalization if they reside in the United States. All those over twenty-one when their parents obtain their papers, must be naturalized, although the process may be different from the one described above. See *Minors infra*.

*Citizens' Children who are Born Abroad.*—The children of persons who now are or have been citizens of the United States are considered citizens even if they are born in foreign countries, as is sometimes the case when people are traveling or reside temporarily in foreign countries as representatives of the United States.

*Minors.*—Any alien who has resided in the United States three years next preceding his arriving at the age of twenty-one years, and who has continued to reside therein to the time

he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he has resided five years within the United States, including three years of his minority, be admitted a citizen; but he must make a declaration or oath and prove to the satisfaction of the court, that for two years next preceding, it has been his *bona fide* intention to become a citizen.

*Soldiers.*—Any alien twenty-one years old, or more, who has been in the armies of the United States and has been honorably discharged therefrom, may become a citizen on his petition, without any previous declaration of intention, provided that he has resided in the United States at least one year previous to his application, and is of good moral character.

*Naturalized Citizens Protected Abroad.*—"All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this Government, the same protection of persons and property which is accorded to native-born citizens."—*Section 2000, U. S. Rev. Stat.*

#### UNITED STATES POSTAL REGULATIONS.

All matter transmitted through the mails is divided into four classes and the rate of postage depends upon the class.

*First Class Mail Matter, Letters.*—The first class includes letters and anything of which the postmaster can not ascertain the contents without destroying the wrapper, or anything unsealed which may be wholly or partly in writing, except manuscript for publication accompanied by proof sheets. Rate of postage, two cents for one ounce or fraction thereof and two cents additional for each additional ounce or fraction. On local or drop letters at free delivery offices, two cents; where no free delivery by carriers, one cent.

*Second Class, Regular Publications.*—This class includes all newspapers, periodicals, or matter exclusively in print and

regularly issued at stated periods from a known office of publication or news agency. Rates of postage, one cent a pound or fraction thereof. Before a publisher or news agent can avail himself of the second class rates of postage he must make application to the Post Office Department at Washington to have his publication admitted to that class. The Government supplies blanks for this purpose and the local Postmaster can usually furnish them.

*Third Class, Miscellaneous Printed Matter.*—Transient newspapers and periodicals, one cent for each four ounces or fraction thereof. Mailable matter of the third class includes printed books, circulars and other matter wholly in print (not of second class), proof sheets and manuscript accompanying the same, and postage shall be paid at the rate of one cent for each two ounces or fractional part thereof, and shall fully be prepaid by postage stamps affixed to said matter.

All packages of matter of the third class must be so wrapped or enveloped that their contents may be readily and thoroughly examined by postmasters without destroying the wrappers.

*Fourth Class, Merchandise, Samples, etc.*—Mailable matter of the fourth class includes all matter not embraced in the first, second or third classes, which is not in its form or nature liable to destroy, deface or otherwise damage the contents of the mail bag or harm the person of any one engaged in the postal service. Rate of postage, one cent an ounce or fraction thereof, to be paid by stamps affixed.

Poisons, explosives, inflammable articles, live animals, insects or substances exhaling a bad odor, will not be forwarded. Limit of weight of fourth-class matter (excepting liquids) four pounds.

POSTAL CARDS.—One cent each for the United States; two cents each for foreign. Anything pasted on or attached to a postal card subjects it to letter postage.

## RATES OF POSTAGE TO FOREIGN COUNTRIES.—CANADA.

Letters, per ounce, must be prepaid, . . . . .	2c.
Postal cards, each, . . . . .	1c.
Newspapers, per 4 oz., . . . . .	1c.
Samples of merchandise not exceeding 8 oz., . . . . .	10c.
Registration fee, . . . . .	10c.

The correspondence exchangeable comprises letters (ordinary and registered), postal cards, newspapers, pamphlets, magazines, books, maps, plans, engravings, drawings, photographs, lithographs, sheets of music, etc., and patterns and samples of merchandise, including grains and seeds. Any article of correspondence may be registered. Patterns and samples are construed to be *bona fide* specimens of goods on hand and for sale, having no intrinsic value aside from their use as patterns and samples. The weight of each package is limited to 8 ounces, and the postage charge is ten cents per package, prepayment compulsory. They are subject to the regulations of either country to prevent violations of the revenue laws; must not be closed against inspection and must be so wrapped and enclosed as to be easily examined.

## MEXICO.

Letters, newspapers, printed matter and samples are now carried between the United States and Mexico at same rates as in the United States.

## COUNTRIES OF THE UNIVERSAL POSTAL UNION.

The United States and Canada and the countries in the following list comprise what is known as the Universal Postal Union. The rates of postage from the United States or Canada to any one of these countries are as follows:



Letters, per 15 grains ( $\frac{1}{2}$ ounce), prepayment optional,	5c.
Postal cards, each,	2c.
Newspapers and other printed matter, per 2 oz.,	1c.
Commercial papers	<div> <div>{</div> <div> Packets not in excess of 10 oz., 5c.  Packets in excess of 10 oz., for  each 2 oz. or fraction thereof, 1c. </div> </div>
Samples of merchandise	<div> <div>{</div> <div> Packets not in excess of 4 oz., 2c.  Packets in excess of 4 oz., for  each 2 oz. or fraction thereof, 1c. </div> </div>
Registration fee on letters or other articles,	10c.

All correspondence other than letters must be prepaid, at least partially.

# COUNTRIES OF THE UNIVERSAL POSTAL UNION.

Argentine Republic.  
 Austria-Hungary.  
 Bahamas.  
 Barbadoes.  
 Belgium.  
 Bermudas.  
 Bolivia.  
 Brazil.  
 British Colonies on West Coast of Africa.  
 British Colonies in West Indies.  
 British Guiana.  
 British Honduras.  
 British India.  
 Bulgaria.  
 Ceylon.  
 Chili.  
 Columbia, U. S. of.  
 Costa Rica.  
 Congo, State of.  
 Denmark.  
 Dominica.  
 Ecuador.  
 Egypt.

France, including Algeria, Monaco, Tunis, Tangier, Cambodia and Tonquin.  
 FRENCH COLONIES:—1. In Asia: French establishments in India, and Cochin, China. 2. In Africa: Senegal and dependencies, Reunion, Madagascar. 3. In America: French Guiana, Gaudaloupe, Martinique, St. Bartholomew, St. Pierre. 4. In Oceanica: New Caledonia, Tahiti, Marquesas Islands, Gambier.  
 Germany.  
 Great Britain and Ireland.  
 Gibraltar and Cypress.  
 Greece.  
 Greenland.  
 Guatemala.  
 Hayti.  
 Hawaii.  
 Honduras.  
 Hong Kong.  
 Italy.

Iceland.

Jamaica.

Japan and Jinsen (Corea).

Liberia.

Luxemburg.

Montenegro.

Netherlands.

NETHERLANDS COLONIES:—1. In

Asia: Borneo, Sumatra. Java, Celebes. 2. In Oceanica: New Guinea. 3. In America: Surinam, Curacao, St. Eustatius.

Newfoundland.

Nicaragua.

Norway.

Nubia, Soodan.

Paraguay.

Patagonia, Eastern part.

Persia.

Peru.

Portugal, including Madeira and the Azores.

PORTUGUESE COLONIES:—1. In

Asia. 2. In Africa: Cape Verde, Mozambique.

Roumania.

Russia, including Finland.

Salvador.

San Marino.

Servia.

Siam.

Spain, including the Canary Islands, the Spanish possessions on the North coast of Africa, the Republic of Andorra and the postal establishments of Spain on the West coast of Morocco.

SPANISH COLONIES:—1. In Africa:

Fernando Po. 2. In America:

Cuba and Porto Rico. 3. In

Oceanica: Ladrone and the Caroline Islands. 4. In Asia: The Phillippine Archipelago.

Straits Settlements (Singapore, Penang and Malacca.)

St. Thomas, W. I.

Sweden.

Switzerland.

Trinidad, W. I.

Turkey, European and Asiatic.

Uruguay.

Venezuela.

## COUNTRIES NOT OF THE UNIVERSAL POSTAL UNION.

COUNTRIES.	Letters per ½ ounce.	Newspapers per 2 ounces.
Australia, except N. S. Wales, Queensland and Victoria, via San Francisco.....	5	2
Australia, all parts via London and Brindisi..	12	2
Cape Colony.....	15	4
China via San Francisco.....	5	2
Fiji Islands via San Francisco.....	—	—
Madagascar (except French Stations).....	23	6
Morocco (except Spanish possessions).....	15	2
Natal.....	15	4
New South Wales.....	12	2
New Zealand via London.....	12	2
Orange Free State .....	15	4
Queensland.....	12	2
St. Helena.....	15	4
Transvaal .....	21	5
Victoria, Australia.....	12	2

Registration allowed on letters to Australia and New Zealand, 10 cents; on all mail matter to South African colonies and States, 10 cents.

## THE ARMY.

*Officers.*—The highest office in the army is that of General. Grant became General, then Sherman, then Sheridan, although the act of Congress conferring this distinction upon Sheridan was only passed a few days before his death. There is no General of the U. S. armies at the present time. W. T. Sherman is on the retired list and the only one living who has been General. The next highest office is Lieutenant-General. All who have been General have first of course been Lieutenant-General. There is no Lieutenant-General at the present time.

The next in rank is Major-General. There are three, of whom John M. Schofield is Major-General commanding. The others are Oliver O. Howard and George Crook.

Next in rank is Brigadier-General. There are now six, viz: Thos. H. Ruger, Nelson A. Miles, Wesley Merritt, David S. Stanley, John Gibbon, John R. Brooke.

The following are stationed at Washington, D. C., with the rank and pay of Brigadier: Richard C. Drum, Adj.-Gen., Samuel B. Holabird, Quar.-Gen., Wm. B. Rochester, Pay.-Gen., Robert Macfeeley, Commissary-Gen., John Moore, Surg.-Gen., A. W. Greely, Chief Signal Officer, Stephen V. Benet, Chief of Ordnance, Thos. L. Casey, Chief of Engineers, Roger Jones, Inspector-Gen., D. G. Swaim, Judge-Advocate-Gen.

*Retirement.*—All officers of the regular army are now retired by act of 1882 on full pay at the age of sixty-four. The retirement up to the close of 1895 will be as follows: Paymaster-General Rochester, Feb. 15, 1890; Quartermaster-General Holabird, June 16, 1890; Commissary-General Macfeeley, July 1, 1890; Surgeon-General Moore, Aug. 16, 1890; Chief of Ordnance Benet, Jan. 22, 1891; Brigadier-General Gibbon, April 20, 1891; Brigadier-General Stanley, June 1, 1892; Major-General Crook, Sept. 8, 1893; Major-General Howard, Nov. 8, 1894; Inspector-General Jones, Feb. 25, 1895; Chief of Engineers Casey, May 10, 1895; Major-General Schofield, Sept. 29, 1895.

The United States is divided into three military divisions and six military departments. The divisions are: 1. The Atlantic. 2. The Missouri. 3. The Pacific. First division includes all States east of the Mississippi river, except Illinois. Third division includes California, Nevada, Arizona, New Mexico, Oregon, Washington, Idaho and Alaska. Second division all the rest of the United States.

*Organization.*—The army of the United States now consists of the following forces, officers and men:



	OFFICERS.	ENLISTED MEN.
Ten cavalry regiments,	437	6,842
Five artillery regiments,	283	2,437
Twenty-five infantry regiments,	885	10,563
Engineer battallion, recruiting parties, ordnance department, hospital service, Indian scouts, West Point, Signal detachment and general service,	583	4,707
Total,	2,188	24,549
Grand total officers and men,		26,737

*Officers' Pay.*—General, \$13,500; Lieutenant-General, \$11,000; Major-General, \$7,500; Brigadier-General, \$5,500; Colonel, \$3,500; Lieut.-Colonel, \$3,000; Major, \$2,500; Captain, mounted, \$2,000; Captain, not mounted, \$1,800; Regimental Adjutant, \$1,800; Regimental, Q. M., \$1,800; 1st Lieutenant, mounted, \$1,600; 1st Lieutenant, not mounted, \$1,500; 2nd Lieutenant, mounted, \$1,500; 2nd Lieutenant, not mounted, \$1,400; Captain, \$1,500.

## NAVY.

*Officers.*—The highest office in the navy is that of Admiral, at present filled by David D. Porter. Next in rank is Vice-Admiral, Stephen C. Rowan. Next is Rear-Admiral of whom there are seven, Jas. A. Greer, Lewis A. Kimberly, Ralph Chandler, Stephen B. Luce, James H. Gillis, James E. Jouette and Bancroft Gherardi.

*Retirement.*—Officers of the navy are retired after forty years' service or at age of sixty-two, or from incapacity resulting from long and faithful service, from wounds, sickness, etc., on three-fourths of sea-pay of the rank held at retirement.

*Pay.*—The pay of naval officers varies according to the duty they are performing as follows:

RANK.	AT SEA.	ON SHORE.	ON LEAVE.
Admiral,	\$13,000	\$13,000	\$13,000
Rear Admiral,	9,000	8,000	6,000
Commodore,	5,000	4,000	3,000
Captain,	4,500	3,500	2,800
Commander,	3,500	3,000	2,300
Lieutenant-Com.,	2,800	2,400	2,000
Lieutenant,	2,400	2,000	1,600
Master,	1,800	1,500	1,200
Ensign,	1,200	1,000	800
Midshipman,	1,000	800	600
Surgeon, } Paymaster, } Chief Engineer, }	2,800	2,400	2,000
Fleet Surgeon, } Paymaster, } Chief Engineer, }	4,400	4,400	4,400
Passed Ass't Surgeon, } Paymaster, } Chief Engineer, }	2,000	1,800	1,500
Assistant Surgeon, } Paymaster, } Chief Engineer, }	1,700	1,400	1,000
Chaplain,	2,500	2,000	1,600
Professor of Mathematics and Civil Engineer,	2,400	2,400	1,500

## POPULATION OF THE UNITED STATES.

The first census was taken in 1790 and showed a population of 3,928,037. The growth of the country as shown by the succeeding censuses has been as follows:

YEAR.	POPULATION.	PERCENTAGE OF INCREASE.
1800	5,308,937	33
1810	7,239,814	36
1820	9,638,191	33
1830	12,860,702	33
1840	17,017,723	32
1850	23,151,876	36
1860	31,335,120	35
1870	38,784,597	23
1880	50,152,866	29

The average rate of increase is 32 per cent. The lowest is 23, for the decade embracing our civil war, when circumstances were not as inviting to foreigners as at other times. Estimating the increase from 1880 to 1890 at the average rate for the century, 32 per cent., and we will number 66,201,783. Estimating it at the rate for the last decade, 29 per cent., and it gives us 64,697,197. If we fall to the lowest rate ever attained, viz: 23 per cent., from 1860 to 1870, then we will have 61,688,025 people. It is evident that as the nation grows older the rate of increase in population will slowly decline.

#### INTEREST LAWS AND STATUTES OF LIMITATIONS.

The interest laws of the different States of the Union are quite various as to the legal rate and rate allowed if stipulated in contract. As a rule if a higher rate is contracted for than the law permits, only the legal rate can be collected in law.

The "Statute of Limitations" means the time fixed by statute within which suit must be brought to recover, or execution issued if on a judgment. The following table exhibits the interest laws and limitation on judgments, notes and open accounts:

STATES AND TERRITORIES.	INTEREST LAWS.		STATUTE OF LIMITATIONS.		
	Legal Rate. Per Cent.	Rate Allowed by Contract. Per Cent.	Judg- ments. Years.	Notes. Years.	Open Accounts. Years.
Alabama	8	8	20	6	3
Arkansas	6	10	10	5	3
Arizona	7	Any Rate	5	3	2
California	7	Any Rate	5	4	2
Colorado	10	Any Rate	6	6	6
Connecticut	6	6*	6	6	6
Dakota	7	Any Rate	20	6	6
Delaware	6	6	20	6	3
District of Columbia	6	10	12	3	3
Florida	8	Any Rate	20	5	2
Georgia	7	8	7	7	4
Idaho	10	13	6	6	3
Illinois	6	8	7	10	5
Indiana	6	8	10	10	6
Iowa	6	10	10	10	5
Kansas	7	12	5	5	2
Kentucky	6	8	15	15	5
Louisiana	5	8	10	5	3
Maine	6	Any Rate	20	6	6
Maryland	6	6	12	3	3
Massachusetts	6	Any Rate	20	6	6
Michigan	6	10	6	6	6
Minnesota	7	10	10	6	6
Mississippi	6	10	7	6	3
Missouri	6	10	20	10	5
Montana	10	Any Rate	6	6	2
Nebraska	7	10	5	5	4
Nevada	7	Any Rate	6	6	4
New Hampshire	6	6	20	6	6
New Jersey	6	6	20	6	6
New Mexico	6	12	15	6	4
New York	6	6†	20	6	6
North Carolina	6	8	10	3	3
Ohio	6	8	5	15	6
Oregon	8	10	10	6	1
Pennsylvania	6	8	5	6	6
Rhode Island	6	Any Rate	20	6	6
South Carolina	7	10	10	6	6
Tennessee	6	11	10	6	6
Texas	8	12	15	4	2
Utah	10	Any Rate	5	4	2
Vermont	6	6	6	6	6
Virginia	6	8	10	5	2
Washington	10	Any Rate	6	6	3
West Virginia	6	6*	10	10	5
Wisconsin	7	10	20	6	6
Wyoming	12	Any Rate	5	5	4

\* Usury not recognized, but over 6 per cent. can not be collected by law whether stipulated or not. † Any rate is allowed in New York on call loans of \$5,000 or more on collateral security.



## SIGNS OF PREGNANCY.

This subject assumes great importance in medical jurisprudence on account of the fact that females from certain motives sometimes *conceal* and sometimes *pretend* pregnancy. Concealment may be attempted to avoid disgrace, and to accomplish secretly the destruction of the offspring. Pregnancy may be pretended or simulated to gratify the wishes of a husband, to defraud the legal successor, to extort money from some one declared to be the father, or to delay execution of the death sentence. There are two sets of indications which may be termed constitutional and local.

*Constitutional Signs.*—1. Mental: the woman approaching maternity is despondent, depressed, morose, peevish, irritable, capricious; she has strange tastes and desires and strong and peculiar antipathies. 2. Facial expression: the face becomes emaciated or thin, features sharply drawn, nose sharp, eyes sunken and surrounded by brownish or purplish circles, mouth enlarged and the whole expression languid. The French call this the decomposition of the features. 3. Vitality: there is an abnormal increase in the vital action, a feverish heat prevails over the body, stronger in those of sanguine temperament, heartburn, pains in the teeth and face, costiveness, excessive flow of saliva and emaciation of parts of the body except breasts and abdomen. 4. Mammary sympathies: the breasts become enlarged and hardened and a dark colored or purplish circle surrounds the nipple. The circle grows larger as gestation advances, deepens in color, becomes raised and turgid, bearing glandular follicles and is considered of the highest degree of evidence of pregnancy. 5. Stomach: morning sickness or irritability of the stomach early in the day, usually just after rising, generally accompanied by vomiting. 6. Menstrual flow: the monthly discharge is usually suppressed. This, however, might occur from other causes, as

some disease of the uterus, and again, some women continue the monthly flow during pregnancy, although these are exceptional cases.

*Local or Sensible Signs.*—1. Uterus: the uterus or womb is rather a cone shaped organ, the base or fundus being up and the apex or os being down. The os is the mouth of the womb or the opening of the neck or cervix of the womb and the part between the cervix and the fundus is called the body. When the new principle is introduced into the uterus and the new life begins to develop there, it causes a determination of blood to the organ which develops it first at the fundus, next in the body and lastly in the cervix. When the uterus is not impregnated the os has a firm, hard feeling and well defined lips. After impregnation the os uteri feels soft, tumid, elastic, the orifice feeling circular instead of transverse. As pregnancy advances the cervix is gradually taken up until it becomes finally wholly absorbed in the body of the womb. 2. Umbilicus: in the natural state the umbilicus or navel is depressed. As pregnancy advances the natural depression is crowded out until the place becomes smooth with the surface of the abdomen and the umbilicus is scarcely perceptible. 3. Abdomen: the abdomen commences perceptibly to enlarge about the end of the third month and increases during the period of gestation. This is not an infallible sign, as the same phenomenon results frequently from disease of the liver, spleen, ovarian tumor or dropsy. 4. Vagina: the vagina from the vulva or external os to the os uteri is of a bluish or violet tint like lees of wine. This is caused by the increased vascularity of the genital organs during conception. But causes other than conception may produce the same appearance. 5. Quickening: the mother feels the quickening about the middle of the period of gestation, sometimes a little sooner. But it may be her interest to conceal it. There are different ways of ascertaining

whether the woman is "quick" with child, outside of her own testimony. In advanced stages of pregnancy the foetal movement can be observed when the mother is sitting, not at all times, but occasionally, causing the abdomen to jump with a sudden motion. Foetal movement may sometimes be excited by a sudden application of the hand, cold from having been immersed in cold water, on the bare front of the abdomen. Or the hand may be laid against the side of the uterine enlargement and at the same time press quickly against the opposite side with the fingers of the other hand. If there is any foetal movement excited it can be felt with the hand—it will be a sudden jump and probably only one movement. The most reliable method, however, is the application of the stethoscope, termed the process of auscultation. This is a tube-shaped instrument, invented for the purpose of examining the lungs and heart. It is of Greek origin, from *stethos*, the breast, and *skopein*, to examine. When applied to the chest, the operator with his ear to the other end can distinctly hear the sounds of the heart and lungs and can judge whether there is any unnatural sound. Placed against the abdomen of a woman quick with child, there are two distinct sounds that can be heard. First, the *souffle* or placental murmur. The placenta is the organ that forms around the foetus, connecting it with the entire inner surface of the uterus and thus with the mother. It is composed principally of vascular tufts on the blood vessels of the umbilical cord. It is the medium of communication of the life blood from the mother to the foetus. It might be considered an enlargement of the umbilical cord, completely enveloping the foetus and conveying the blood which it sucks from the mother by its leech-like attachment to the inner walls of the womb, to the foetus through the umbilical cord entering at the center of the abdomen. The placenta always comes away after the birth of the child and is commonly called the "afterbirth."

The placental sound referred to is a low murmuring or cooing sound, accompanied by a slight rushing, but no impulse or throb. This sound occurs at the same time with the mother's pulse and may intermit. The second sound that can be distinguished is the pulsation of the foetal heart. This is double and consequently very rapid, running from one hundred to one hundred and sixty a minute. These heart pulsations can not be heard until the fifth month is passed and grow more and more distinct as pregnancy advances. Successful auscultation not only establishes pregnancy but reveals the life of the foetus.

*Legal Aspects.*—There are two cases which may arise making it important to ascertain whether a woman is really pregnant. One is when it is thought she is pretending pregnancy; the other when she is charged with concealing it. The motives that may induce a woman to pretend to be pregnant when she is not are two: First, when a widow feigns herself to be with child in order to produce a supposititious or spurious heir to the estate. In this case the presumptive heir may have a writ *de ventre inspiciendo*, which means that the sheriff shall have an examination made and the fact determined whether pregnancy exists or not. This inspection is made in England by twelve matrons, in the presence of twelve knights. If the result shows pregnancy she is kept under proper guard until delivered. If the decision is that she is not pregnant the presumptive heir is admitted to the inheritance. The second motive is when a woman has been sentenced to death for the commission of a crime. A woman quick with child would not be executed while in that condition. When this claim is made a jury of twelve matrons examine her to ascertain the truth, and if their verdict be *quick with child* execution will be stayed till next term of court, or from term to term until she is either delivered or proves, by the course of nature, not to



be with child at all. A verdict simply *with child* will not be sufficient—it must be alive in the womb. But in Scotland all that is necessary to be proved is the fact of pregnancy, no matter whether the woman is quick with child or not. And the same would be sufficient in most States of this country. New York, however, has a statute for such a case authorizing the sheriff to summon a jury of six physicians, and if they find the woman convict *quick with child* execution is suspended and the finding sent to the Governor of the State. When he finds that she is no longer *quick with child* he issues his warrant for her execution.

There is seldom any motive for the concealment of pregnancy that is not criminal, generally the destroying of the life of the fœtus in utero, or of the child immediately upon birth. It is easy to destroy fœtal or infant life and hard to furnish proof of the criminal act. Extremely severe laws have been passed in England, and in some of the States of the Union, to facilitate the proof and to punish the act of concealment of pregnancy itself. An early act in England (21 Jac. 1. C. -7) required that any mother of a dead born child, which if born alive would have been illegitimate, who had tried to conceal its birth, should prove by at least one witness that it was born dead, otherwise the presumption should be conclusive that she had murdered it. This cruel law was very much modified in 1803 and since then mothers indicted for the murder of bastard children are tried by the ordinary rules of evidence. Pennsylvania had a law passed in 1781 making the concealment of the death of a bastard child conclusive evidence to convict the mother of its murder. This was repealed in 1790 and further modified in 1794. The punishment usually prescribed in the States for this crime is fine and imprisonment. New York, Massachusetts, Vermont, Connecticut, New Jersey, New Hampshire, Georgia, Illinois and Michigan have statutes on this subject.

## PERIODS OF GESTATION.

Woman, 10 lunar months, 280 days, or 9 months and 10 days; horse and ass, 11 months; camel, 12 months; elephant, 2 years; lion, 5 months; buffalo, 12 months; cow, 9 months; sheep, 5 months; reindeer, 8 months; monkey, 7 months; bear, 6 months; hog, 4 months; dog, 9 weeks; cat, 8 weeks; rabbit, 4 weeks; guinea pig, 3 weeks; wolf, 3 months; goose eggs hatch in 30 days; swan, 42 days; hen, 21 days; duck, 30 days; pea hen and turkey, 28 days; canaries, 14 days; pigeons, 14 days; parrots, 40 days.

Above periods are average and are subject to considerable variation in individual cases.

## HOUSEHOLD REMEDIES.

*Scarlet Fever.*—Dr. Henry Pigeon, eminent physician of London, Eng., gives the following account of his method of treatment of Scarlet Fever: “The marvelous success which has attended my treatment of scarlet fever by sulphur induces me to let my medical brethren know of my plan, so that they may be able to apply the same remedy without delay. All cases in which I used it were well marked and the epidermis on the arms in each case came away like the skin of a snake. The following was the exact treatment followed in each case: Thoroughly anoint the patient twice daily with sulphur ointment; give five to ten grains of sulphur in a little jam three times a day. Sufficient sulphur was burned, twice daily (on coals on a shovel), to fill the room with the fumes, and of course was thoroughly inhaled by the patient. Under this mode of treatment each case improved immediately, and none was over eight days in making a complete recovery, and I firmly believe in each it was prevented from spreading by the treatment adopted. One case was in a large school. Having had a large experience in scarlet fever, I feel some confidence

in my own judgment, and I am of the opinion that the very mildest cases I ever saw do not do half so well as bad cases do by the sulphur treatment, and, so far as I can judge, sulphur is as near a specific for scarlet fever as possible."

*Diphtheria*.—Mr. John S. Wiles, a surgeon of Thorncombe, Dorset, England, had his attention called to sulphur as a specific for that dread disease, diphtheria, after having lost two cases of a malignant type out of nine or ten he had been called upon to attend. He tried it using milk of sulphur for infants and flowers of sulphur for older children and adults, brought to a creamy consistence with glycerine; dose—a teaspoonful or more, according to age, three or four times a day, swallowed slowly and application of the same to the nostrils with a sponge. He did not lose a case by this treatment and succeeded in saving life when the throat was almost blocked.

*Cholera*.—Cholera is so swift and fatal in its action that its deadly work is generally done before medical aid can be procured. It is of the utmost importance to those who stand in any danger of this dread disease to be prepared to give immediate and radical treatment. We give a simple remedy that is procurable by every one and that any intelligent person can use. It was used with great success in Dublin in 1836 and saved thousands of lives. It was used with equal success again in 1848. If used at the right time and in the proper way it will save life 99 cases out of 100.

Formula: Dissolve 1 ounce of camphor in 6 ounces of spirits of wine. If there is an epidemic of cholera the best way would be to put this medicine in the hands of a few intelligent persons who would undertake to administer it to their neighbors when they are seized with the cholera or any of its symptoms. But the following instructions must be followed without deviating in the least degree.

*Treatment*.—Symptoms: Vomiting, purging, sudden weakness, coldness, cramps or spasms.

No Whiskey.—Do not under any circumstances give any brandy, whiskey or other kinds of spirits.

Put to Bed.—Put the patient to bed at once, covering warmly, but not overloading with bed clothes.

Camphor, 2 Drops.—Without any delay give two drops (no more) of the camphor mixture on a little pounded sugar in a spoonful of *cold* or *iced* water. Be sure and use cold water and nothing else.

In five minutes repeat the dose exactly as at first and in five minutes more give a third dose of two drops in the same way. Now wait ten or fifteen minutes to see whether there is a sense of returning warmth, any indication of perspiration, decrease of sickness, cramps, etc. Then, if necessary, give two drops as before and repeat every five minutes until 12 or 14 drops have been taken. The patient must not be allowed to take anything of any kind whatever except the cold or iced water while the medicine is operating or it will completely destroy its effects. Any other medicine or hot drinks of any kind will neutralize the camphor and its effects will be lost. The object of the camphor is to check vomiting and produce a free, warm and natural perspiration. The use of cold or iced water was recommended by the celebrated and wonderfully successful Dr. Paddock, of London, who always permitted his patients to drink cold or iced water, believing that it has a tendency to promote perspiration and the discharge of yellow bile. Now, when perspiration begins and there are signs of returning warmth, do not permit the patient to arise and expose himself to any degree of cold. Do not torment him with baths or steaming or rubbing of any kind.

Let Him Lie Still.—At this juncture he should be permitted to lie perfectly still and he will soon fall asleep after perspiration begins. Let him sleep until he wakes when he will be well but very weak and languid and perhaps a little



feverish. If feverish, give a small dose, say a teaspoonful, of Gregory's powder. Or rhubarb and magnesia with a little peppermint water to wash it down will be good. But the patient must be kept quiet, taking only a little soup, broth or gruel, for a day or two.

This is a certain and positive cure for cholera, whenever taken in time and the cure is generally effected before it is possible to get a physician, that is in less than an hour.

*Drunkenness.*—John Vine Hall, commander of the celebrated Great Eastern steamship, became so addicted to the use of intoxicating drink that he was entirely unfitted for business and his strongest efforts to reclaim himself proved unavailing as the insidious stimulant had destroyed his will-power. Recognizing his helpless condition and still having the desire to exert his former manly independence, he sought the aid of an eminent physician, who gave him a prescription which he used faithfully for seven months. At the end of this time he was strong and vigorous as ever, the debasing appetite which had for so many years led him humble captive was entirely gone—in other words, he was himself again and had no desire for strong drink. He afterwards published the prescription for the benefit of his suffering fellow mortals who desire to rid themselves of the debasing chains of slavery to strong drink, and by it thousands have since been restored.

The formula is as follows:

Sulphate of iron, five grains; magnesia, ten grains; peppermint water, eleven drachms; spirit of nutmeg, one drachm. Dose, one tablespoonful twice a day. This is a tonic and satisfies the desire for a stimulant and prevents that prostration and physical demoralization that would otherwise follow a sudden breaking off of the use of alcoholic stimulants. It also finally entirely destroys the desire for intoxicants and consequently restores a man's independence and manhood.

*Small-Pox.*—It is said that the worst case of small-pox can be cured in three days simply by the use of cream of tartar. One ounce of cream of tartar dissolved in a pint of water, drank at intervals, when cold, has cured thousands, never leaving a mark, never causing blindness and avoiding all tedious lingering. It is simple and safe, and worthy a trial.

*Lockjaw.*—Lockjaw generally results from a wound in some part of the body, frequently in the foot or some of the extremities. When lockjaw sets, take a little turpentine, warm it, and pour it into the wound, and relief will follow in a minute. Nothing better can be applied to a severe cut or bruise than cold turpentine, it will relieve almost instantly.

*Croup.*—Turpentine is a sovereign remedy for croup. Saturate a piece of flannel with turpentine and place it on the throat and chest; three or four drops may be taken inwardly on a lump of sugar. Relief will always follow.

*To Remove a Mote from the Eye.*—Place the fingers upon the lid of the other eye and hold them there lightly, moving about gently. Do not under any circumstances touch the eye in which the mote is lodged. Soon the eye affected will open, the water will flow and the mote will come out and the pain cease. There is no philosophy in this method, but it is wonderfully effective and is worth trying. Sometimes the foreign substance may be metallic, or may have struck the eye with such force as to be slightly imbedded in the ball. In these cases other means would have to be used. A magnet is sometimes very useful in drawing out a metallic mote. Hold it close to the open eye. Some recommend drawing the upper lid down over the lower one, thus increasing the flow of tears and brushing the inner surface of the lid with the lashes, often removing the mote. If the mote can be seen, it may generally be removed by another person placing a silk handkerchief over the point of a pencil and gently touching it. Most

of the pain comes from scratching the ball and irritating it by rubbing the eye with the fingers as soon as the mote lodges in the eye. Do not do this.

*Hemorrhage.*—Bleeding from the stomach or lungs is generally stopped by small doses of common table salt. Bleeding from the nose is relieved by bathing the face and neck with cold water.

*Insomnia.*—When sleeplessness is caused by too much blood in the head, apply a wet, cold cloth to the back of the neck. Eating lightly of ordinary food will sometimes relieve the brain by determining the blood to the stomach.

*Common Sore Throat.*—Chloride of potash is the standard remedy especially when the throat is raw. Dissolve in water and gargle. It can now be had at the drug stores in the form of buttons which dissolve in the mouth.

#### TO MEASURE CORN IN THE CRIB.

Take the inside measure of the crib in feet. Multiply length, breadth and thickness together and divide the product by two. If the corn is sound and dry ears the result will be the number of bushels of shelled corn in the crib because two cubic feet of good ear corn will shell one bushel.

#### TO MEASURE HAY IN THE MOW.

Allow 512 cubic feet of hay for a ton, if the hay is properly cured and carefully stored. The rule then is plain: Take the product of the length, breadth and depth of the mow in feet and divide by 512.

#### TO MEASURE GRAIN, APPLES, POTATOES, ETC., IN A BIN.

Take the inside dimensions in feet and multiply them together, as above. Four-fifths of this product will be the number of bushels near enough for practical purposes. Multiply by 4 and divide by 5.

## DEED TO A FARM—WHAT IT INCLUDES.

When a person sells a farm and makes a deed he conveys to the purchaser title in the land and everything upon it whose use, nature or attachment make it a part of the realty. Everything personal is retained and may be removed. This is the real test in all the cases, a few of which are appended. The deed includes all fences standing, also all fencing material such as posts, rails, etc., which had been once used in a fence but taken down and piled up for future use in the same place. New fencing material, just bought and never used, is personal and would not pass. Hop poles once used and piled up or stored to be used again go with the land, but loose boards laid across the beams of a barn and never fastened to it do not, and the seller may remove them. Standing trees and trees cut or blown down and left lying where they fell go with the land, but if cut and corded up for sale they do not—the wood has become personal property.

Manure in the barnyard or in the compost heap ready for use goes with the land in the absence of any special agreement to the contrary, though it might not if the owner had previously sold it to some other party and had collected it together in a heap by itself, as this would be a technical severance from the soil, converting it into personal property. A lessee can not remove the manure made on the farm while he is in occupation.

Growing crops pass with the farm unless expressly reserved. If it is not intended to convey the crops it should be so stated in the deed, an oral agreement not being sufficient. It is sometimes stipulated that possession is to be given at some future day by which time the crops, manures, etc., may be removed.

Buildings go with the land without naming them in the



deed, also lumber and timber of any old building which has been torn down or blown down and stored away for future use.

The real test in all these instances and in all others that may arise, is whether the thing in question is personal or real. If real it goes with the land; if personal the seller may remove it. An intelligent application of this rule will bring the correct solution to all cases and obviate much trouble and sometimes litigation. The same rule and strictness of construction applies between an executor and an heir at law as between a vendor and vendee.

#### THE GULF STREAM.

The Gulf Stream is one of the wonders of the physical world. Every school boy knows of its existence, the neighborhood of its origin, its direction, velocity, temperature, color, relation to navigation, effects upon climate and vegetation on coasts it touches and other features, but as to the actual cause, the initial force that gives it momentum, all must profess ignorance. The learned writers have only offered theories upon this important question. A very interesting investigation of this matter was recently made by Mr. W. S. Howard, who was for three years attached to the United States coast survey steamer Blake which for three months was anchored at the source of the Gulf Stream, in the Carribean Sea, and spent two years in tracing up and fixing the source of this wonderful marine river. His remarks upon this subject, which we give below, while not disclosing positively the true cause of the stream, set at rest some old theories and give us the most reliable information that has ever been obtained on that subject. Mr. Howard says: "We spent two years in tracing up the Gulf stream and studying its peculiarities, and, while we are still in the dark as to the primary cause of this great ocean river, we have definitely fixed upon the spot where it orig-

inates. Formerly it was believed that the Gulf stream was simply the continuation of the Mississippi river, the immense volume of water flowing out of which cleaved its way through old ocean and preserving its own distinctive characteristics as to temperature and color, finally was lost and assimilated by the waters of the frozen northern seas. Others held to the opinion that the Gulf stream was formed and controlled by the trade winds.

"Our observations and investigations furnished us with conclusive proof that neither of these elements has anything to do with it. One curious fact was established, however. We found that the moon affected the Gulf stream and that the current was controlled absolutely and arbitrarily by that body.

"The true source or beginning of the Gulf stream, established by careful scientific observation, extending over a period of two years, is at a point between Fowey Rocks, Fla., and the Gun Cay, on the coast of the Bahamas. At this place, in 498 fathoms of water (a fathom is 6 feet), we anchored and for months devoted ourselves to a careful study of the great ocean river.

"Let me tell you something about the peculiarities that we noticed. To begin with, the current of the Gulf stream at the point where we were anchored and which we unanimously agreed upon as its true source, varies daily in velocity. The difference in the flow was at times as much as two and a half knots per hour (a knot is 6086.7 feet). The greatest velocity noted was generally about nine hours before the upper transit of the moon. The variations were most excessive on the eastern side of the straits and least on the western side. The average daily currents vary during the month, the strongest current coming a day or two after the greatest declination of the moon.

"The axis or true point of beginning of the Gulf stream

(determined by fixing the position of the strongest surface flow) is eleven and a half miles east of the Fowey Rocks lighthouse. The strongest surface current found here was five and a quarter knots per hour, the least, one and three-quarter knots and the average, three and six-tenths knots. We used two meters in our observation, one for the surface current and one for the sub-surface stream. The wind has no effect upon the velocity of the stream and does not change the axis of the current. The surface current, it was noticed, has a much higher velocity than the sub-surface. During our observations we occupied twenty-six different stations, being anchored at each for several days at a time. We took 1,557 current observations with the meter and 1,807 current observations with the pole during this time.

"We were all satisfied that neither the Mississippi river nor the trade winds were in any way responsible for the Gulf stream; that it was affected by the changes of the moon; and that this particular point, 11½ miles east of Fowey Rocks lighthouse, was its true axis or source.

"The probable first cause still affords a great field for speculation. Just imagine, if you can, what would have been the result if we could have donned submarine armor and dived to the bottom in 498 fathoms of water. We made soundings, but they revealed to us nothing. The bottom was a sandy coral foundation; fish and other submarine creatures lived and disported themselves in the depths and all the time that surging, resistless current boiled about us, defying inquiry as to its true origin.

"It might be, for aught any one could say to the contrary, the mouth of a great river, with its source deep down in the bowels of the earth, among those everlasting fires that scientists tell us are continually burning there. The superheated water gushing to the surface of the ocean at that depth with a

power that can not be estimated would be apt to displace the chilled and heavier water of the ocean, and with an initial velocity of nearly six miles an hour, would certainly clear for itself a pathway through the ocean until chilled and rendered inert by the frozen waters of the Arctic seas.

“Again, it may be that we were anchored over an immense and ever active volcano, which, in no way crippled by the constant influx of the cold ocean water into its yawning crater, continually, with a power that human thought can not measure, hurls back the heated waves, and this repulsion, going on day after day and year after year for a period of time that has not yet been fixed by observation or deduction, has increased the volume of the at first puny geyser until now it has become a fixed and well founded current, differing in color and temperature from the water that surrounds it, and with a sweep and stretch that extends over thousands of miles. You can theorize all day over the matter and perhaps be as far from the truth as ever. The observations made by the Blake settled several disputed points:

“First—That the winds and the Mississippi river have nothing to do with the formation of the Gulf stream.

Secondly—That a point eleven and a half miles east of Fowey Rocks lighthouse, Florida, in the Carribean sea, is its true axis or source.

Thirdly—That the velocity of the current is controlled by the declination of the moon.”

#### ORIGIN OF THE NAMES OF THE MONTHS.

*January.*—The Roman or Latin deity, Janus, was the god of the sun and the year. The month of January was named for him. He was always represented in Roman statuary with two faces, looking in opposite directions. The Temple of Janus, at Rome, was never closed except in time of universal peace.



*February*.—This month was introduced into the Roman calendar by Numa. The name undoubtedly comes from the great feast of expiation or purification held every year on the fifteenth of this month and called *Februa*, from *februum*, in the Sabine language a purgative, hence the plural *februa*, the festival of purification and from this Februarius, the Latin name of the month which we call February.

*March*.—From Mars, the Roman god of war.

*April*.—Latin Aprilis, contracted from *Aperilis*, which comes from *aperire*, to open. The month in which the earth opens for a new fruitage; buds burst and flowers come forth in April.

*May*.—The goddess *Maia* was the daughter of Atlas. She was the mother of Mercury by Jupiter. The Greek *Maia* means properly mother. The fifth month of the year is named after this goddess.

*June*.—Latin Junius, from Juno, because the month was sacred to this goddess. Juno was the sister and wife of Jupiter. She was the goddess who presided over marriages and was supposed to protect married women.

*July*.—Latin Julius. Julius Cæsar was born in this month which was then called Quintilis, the fifth month, March being the first according to the old Roman calendar. The name of the month was changed to Julius, Cæsar's surname, at the suggestion of Antony. From Julius we get July.

*August*.—Latin Augustus. The Emperor O. Augustus Cæsar won a number of victories and also entered into his first consulate in the month Sextilis, meaning sixth, counting from March. He changed the name himself to Augustus, his own surname, and we call it August.

*September*.—From Latin septem, meaning seven. The seventh month in the old Roman calendar, counting from March.

*October.*—From Latin octo, eight.

*November.*—From Latin novem, nine.

*December.*—From Latin decem, ten. The last four months retain their names in the old Roman calendar according to their number, counting from March, which makes them seem the seventh, eighth, ninth and tenth months, whereas in our calendar, beginning at January, two months earlier, they are the ninth, tenth, eleventh and twelfth.

#### RELIGION IN CARDS.

A private soldier by the name of Richard Roe was taken before the mayor for playing cards during divine service. It appears that a sergeant commanded the soldiers at the church, and when the parson had read the prayers, he took the text. Those who had a Bible took it out, but this soldier had neither Bible nor common prayer book, but pulling out a pack of cards he spread them before him. He just looked at one card and then at another. The sergeant of the company saw him, and said, "Dick, put up the cards; this is no place for them."

"Never mind that," said Richard.

When the service was over, the constable took Richard before the mayor.

"Well," says the mayor, "what have you brought the soldier here for?"

"For playing cards in church."

"Well, soldier, what have you to say for yourself?"

"Much, sir, I hope."

"Very good. If not, I will punish you more than man was ever punished."

"I have been," said the soldier, "about six weeks on the march. I have neither Bible nor common prayer book. I have nothing but a pack of cards, and I'll satisfy your worship of the purity of my intentions." And, spreading the cards before the mayor, he began with the ace: "When I see the

ace, it reminds me there is but one God. When I see the deuce, it reminds me of Father and Son. When I see the trey, it reminds me of the Father, Son and Holy Ghost. When I see the four spot, it reminds me of the four Evangelists that preached, Matthew, Mark, Luke and John. When I meet the five, it reminds me of the five wise virgins that trimmed their lamps—there were ten, but five were wise and five were foolish and were shut out. When I see the six, it reminds me that in six days the Lord made heaven and earth. When I see the seven, it reminds me that on the seventh day he rested from the great work he had created, and hallowed it. When I see the eight, it reminds me of the eight righteous persons that were saved when God destroyed the world, viz: Noah and his wife, with three sons and their wives. When I see the nine, it reminds me of the nine lepers that were cleansed by our Saviour, there were nine out of ten who never returned thanks. When I see the ten, it reminds me of the ten commandments which God handed down to Moses on tables of stone. When I see the King, it reminds me of the King of heaven, which is God Almighty. When I see the Queen, it reminds me of the Queen of Sheba, who visited Solomon, for she was as wise a woman as he was a man. She brought with her fifty boys and fifty girls, all dressed in boys' apparel, for King Solomon to tell which were boys and which were girls. King Solomon sent for water for them to wash; the girls washed to the elbows and the boys to the wrists, so King Solomon told by that."

"Well," said the mayor, "you have given a good description of all the cards but one."

"What is that?"

"The knave," said the mayor.

"I will give your honor a description of that, too, if you will not be angry?"

"I will not," said the mayor, "if you do not term me to be the knave."

"Well," said the soldier, "the greatest knave that I know of is the constable that brought me here."

"I do not know," said the mayor, "if he is the greatest knave but I know he is the greatest fool."

"When I count the spots in a pack of cards, calling the picture cards eleven, twelve and thirteen, I find there are, with the joker, three hundred and sixty-five, the number of days in a year. If I count the cards in a pack I find fifty-two, the number of weeks in a year. There are four suits, the number of weeks in a month and thirteen tricks, the weeks in a quarter. So you see, Mr. Mayor, a pack of cards serves for a Bible, a prayer book and an almanac."

"You are dismissed," said the mayor.



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